

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 623.)

[R13-35]

PREAMBLE

- 1. Article, Part or Section Affected (as applicable)**

R4-20-102	Amend
R4-20-109	Amend
R4-20-118	Amend
R4-20-119	Amend
Table 1	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 32-1673

Implementing statute: A.R.S. §§ 32-1673, 32-1681, 32-1682, 32-1683, 32-1684, 32-1685, 32-1687, 32-1691.01, 32-1694, 32-1695, 32-1696
- 3. The effective date of the rule:**

May 5, 2013
- 4. Citations to all related notices published in the *Register* as specified R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 659, March 16, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 1108, May 18, 2012

Notice of Supplemental Proposed Rulemaking: 18 A.A.R. 3071, November 23, 2012
- 5. The agency contact person who can answer questions about the rulemaking:**

Name:	Lori D. Scott, Executive Director
Address:	1400 W. Washington, Rm 230 Phoenix, AZ 85007
Telephone:	(602) 542-8158
Fax:	(602) 542-3093
E-mail:	director@asbdo.state.az.us
Web site:	www.do.az.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The rule provides detailed licensing and regulatory information and procedural instructions. The Board is proposing to amend Section R4-20-102 for clarification on material necessary to submit with the application for licensure. R4-20-109 is being amended to clarify qualifications for reinstatement of an optician's license. R4-20-118 is amended to require opticians to maintain a record of the customer's prescription and a record of optical devices dispensed versus an actual copy of the prescription. R4-20-119 is amended to include filling prescriptions beyond the expiration date as

Notices of Final Rulemaking

substandard care. Table 1 is amended to change the time-frame on Optical Establishments to fall in line with other applications.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review the study, all data underlying each study, and any analysis of the study and other supporting material:**

Not applicable

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state.

9. **A summary of the economic, small business, and consumer impact:**

This rulemaking will not impact applicants. This will impact licensed opticians and establishments by clarifying qualifications already set forth in statute for establishment licensing and will also help in eliminating paper by allowing establishments to keep electronic records. These changes will have a minimal impact on opticians and establishments.

10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

Minor, non-substantive changes were made between proposed, supplemental, and final at the request of G.R.R.C. staff. Clerical and statutory clarifications to the time-frame table were made.

11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

No comments submitted

12. **All agencies shall list other matter prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable.

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The license required by statute and rule falls within the definition of general permit in A.R.S. § 41-1001.

- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

13. **A list of any incorporation by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

No changes are being made to the incorporated materials in R4-20-119(B).

14. **Whether the rule was preciously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable.

15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

ARTICLE 1. GENERAL

Section

R4-20-102.	Application for a Dispensing Optician's License by Examination
R4-20-109.	Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
R4-20-118.	Unprofessional Conduct
R4-20-119.	Substandard Care
Table 1.	Time-frames (in days)

Notices of Final Rulemaking

ARTICLE 1. GENERAL

R4-20-102. Application for a Dispensing Optician's License by Examination

At least 45 days before an examination date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, Social Security number, address, and telephone number;
 - b. The name and address of the applicant's employer at the time of application, if applicable;
 - c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for three of the six years immediately preceding the application date, and the beginning and ending dates of each apprenticeship;
 - d. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for one of the six years immediately preceding the application date and the beginning and ending dates of service. The applicant shall submit a photocopy of the applicant's diploma from the optical dispensing school;
 - e. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for three of the six years immediately preceding the application date and the beginning and ending dates of employment;
 - f. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in any state;
 - g. A statement of whether the applicant has ever had an application for a professional license denied or had a license suspended or revoked in any state; and
 - h. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's:
 - a. ~~high~~ High school diploma or general educational diploma issued in any state; or
 - b. Transcripts from a high school or college; or
 - c. Evidence of a college degree or admission to any college in any state;
3. Verification of passing an ABO and NCLE Board examination in opticianry as evidenced by an original notice of examination results or a copy of the original certificate of passage issued by the organization that prepared the examination;
4. A letter attesting to good moral character from each of three individuals who are not family members, who have known the applicant for two years immediately before the date of the application, and support the applicant's licensure;
5. A letter from each physician, optometrist, or dispensing optician named in subsection (1)(c), (d), or (e) that contains:
 - a. The individual's printed name, address, and telephone number; and
 - b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the physician, optometrist, or dispensing optician for the time required in subsection (1)(c), (d), or (e);
6. A photograph of the applicant no smaller than 1 ½ x 2 inches and taken not more than six months before the date of application; and
7. The fee required in R4-20-112.

R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement

- A. No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the Board the fee required by R4-20-112, proof of continuing education credits required by R4-20-120, and an application form, provided by the Board, signed and dated by the applicant, and notarized that contains:
 1. The applicant's name, Social Security number, address, and telephone number;
 2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
 3. A statement that the information contained on the renewal application is correct.
- B. A licensee who submits a renewal application and renewal fee postmarked after December 31 but before January 31 of the following year shall pay the late fee in R4-20-112.
- C. A licensee who fails to submit a renewal application postmarked before January 31 following a license expiration of December 31, and who wishes to reinstate the license, shall:
 1. Submit a reinstatement application within one year of license expiration;
 2. Pay the renewal fee and the late fee in R4-20-112;
 3. Achieve a passing grade on the practical examination, unless the applicant has successfully completed the practical examination in the five-year period immediately preceding the license expiration; ~~and,~~
 4. ~~Submit evidence of passing the ABO and NCLE examinations.~~

Notices of Final Rulemaking

R4-20-118. Unprofessional Conduct

In addition to actions specified in A.R.S. § 32-1696, unprofessional conduct in the practice of optical dispensing includes the following:

1. Substandard care as specified in R4-20-119;
2. Failing to maintain a copy or record of the customer's prescription and failing to prepare and maintain a record of optical devices dispensed for at least three years. The record of optical devices dispensed shall include the brand, style, and size of the frame, if any, and the style, material, source, and all other information necessary to accurately reproduce each lens. The record shall be separate from optometrists' or physicians' records;
3. Failing or refusing to make a copy of a prescription or record described in subsection (2) promptly available to the customer who is the subject of the prescription or record, the customer's designated representative, the customer's prescribing practitioner, or the Board or its investigator, when requested. Notwithstanding this provision, a dispensing optician need not make the record of contact lenses dispensed on a trial basis available to the customer;
4. Failing or refusing to take corrective action or investigate a customer complaint concerning the manufacture or fit of eyeglasses, contact lenses, or other optical devices dispensed at the establishment by which the dispensing optician is employed if there is a substantial basis for the complaint;
5. Failure of any person, corporation, company, partnership, firm, association or society to maintain an active optical establishment license as required by R4-20-110; and
6. Failure to comply with a Board order.

R4-20-119. Substandard Care

A. It is substandard care for a dispensing optician:

1. To dispense improperly manufactured eyeglasses or contact lenses. If a complaint indicates that eyeglasses or contact lenses dispensed by a dispensing optician or other employee of an optical establishment may have been improperly manufactured, the Board shall be guided in its determination of the facts by referring to the standards incorporated by reference in subsection (B) with regard to the individual parameters listed in the standards and considering patient wear, care, and usage;
2. When interpreting written prescriptions:
 - a. ~~to~~ To fail to follow standards incorporated by reference in subsection (B) in determining lens powers due to differences in vertex distances, base curvatures, special lens requirements, and facial fitting problems; or
 - b. ~~to~~ To fail to comply with special instructions of the vision practitioner or optometrist shown on the prescription without the full knowledge and consent of the customer, the physician, or optometrist; or
 - c. To fill prescriptions beyond the expiration date indicated on the prescription;
3. To fail to follow manufacturer's guidelines regarding usual and customary lens thickness of eyewear;
4. To intentionally or negligently injure a customer during the course of optical dispensing; or
5. To fail to give the customer appropriate instructions on the care, handling, and wearing of an optical device.

B. The following standards published by the American National Standards Institute, Inc., (ANSI), 1819 L Street, NW, Suite 600, Washington, DC 20036, are incorporated by reference, and no further editions or amendments and are on file with the Board:

1. ANSI Z80.1 1999, "Prescription Ophthalmic Lenses-Recommendations."
2. ANSI Z80-20-1998, "Contact Lenses-Standard Terminology, Tolerances, Measurements And Physiochemical Properties."
3. ANSI Z80.5-2004, "Requirements for Ophthalmic Frames."
4. ANSI Z87.1-2003, "Occupational and Educational Personal Eye and Face Protection Devices."
5. ANSI Z80.9-1998 "Optical Devices for Low Vision."

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to Take a Dispensing Optician Examination (R4-20-102)	A.R.S. § 32-1682 A.R.S. § 32-1684	90	30	60
License by Examination (R4-20-102)	A.R.S. § 32-1682 A.R.S. § 32-1684	60	30	30
License by Comity (R4-20-107)	A.R.S. § 32-1683	90	30	60
Optical Establishment License (R4-20-110)	A.R.S. § 32-1684.01	30 <u>60</u>	10 <u>30</u>	20 <u>30</u>

Notices of Final Rulemaking

Optician's License Renewal (R4-20-109)	A.R.S. § 32-1682	60	30	30
<u>Optical</u> Establishment License Renewal (R4-20-115)	A.R.S. § 32-1684.01	60	30	30

NOTICE OF FINAL RULEMAKING

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

CHAPTER 3. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS

DIVISION OF MILITARY AFFAIRS

Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 623.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 25, 2010.

[R13-33]

Preamble

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| Article 1 | Amend |
| R8-3-101 | Amend |
| R8-3-102 | Amend |
| R8-3-103 | Amend |
| R8-3-104 | Amend |
| R8-3-105 | Re-number |
| R8-3-105 | Amend |
| R8-3-106 | Re-number |
| R8-3-106 | Amend |
| R8-3-107 | Re-number |
| R8-3-107 | Amend |
| R8-3-108 | Re-number |
| R8-3-108 | Amend |
| R8-3-109 | Re-number |
| R8-3-109 | New Section |
| R8-3-110 | Re-number |
| R8-3-110 | Amend |
| R8-3-111 | Re-number |
| R8-3-111 | Amend |
| R8-3-112 | Re-number |
| R8-3-112 | New Section |
| R8-3-113 | Re-number |
| R8-3-113 | Amend |
| R8-3-114 | Re-number |
| R8-3-114 | New Section |
| R8-3-115 | Re-number |
| R8-3-115 | Amend |
| R8-3-116 | Re-number |
| R8-3-116 | Amend |
| R8-3-117 | Re-number |
| R8-3-117 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 26-262
 Specific statute: A.R.S. § 26-102(C)(5)
- 3. The effective date of the rules:**
 March 5, 2013
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in**

Notices of Final Rulemaking

A.R.S. § 41-1032 (A)(1) through (5):

In accordance with A.R.S. § 41-1032(A)(1), the Department is requesting that these rules are effective immediately for the following reasons:

1. When DEMA acquired the Military Installation Fund, we also acquired some distressed properties that are in need of immediate attention. The agency has received several complaints on a property that is considered dangerous and a public safety hazard.
2. Also, the agency has received a new application for acquisition of properties which has been on file for over a year.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not Applicable.

4. Citations to all related notices published the Register as specified in R1-1-409 (A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 18 A.A.R. 851, April 6, 2012
Notice of Recodification: 18 A.A.R. 848, April 6, 2012
Notice of Proposed Rulemaking: 18 A.A.R. 3047, November 23, 2012

5. The agency's contact person who can answer questions about the rulemaking:

Name: John Burk, Senior Executive Officer
Address: Department of Emergency and Military Affairs
5636 E. McDowell Rd.
Phoenix, AZ 85008
Telephone: (602) 267-2732
Fax: (602) 267-2549
E-mail: John.Burk@azdema.gov
Web site: http://azdema.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The purpose of this rulemaking is to incorporate legislative changes to the Military Installation Fund. Changes to A.R.S. § 26-262 expanded the list of authorized uses of Military Installation Fund monies to include construction, demolition, and management. Amending these rules will allow the Department to use the Military Installation Fund to effectively preserve military installations through management and disbursement of funds.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rules.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not Applicable.

9. A summary of the economic, small business, and consumer impact:

The Military Installation Fund provides a means by which to preserve land around military installations and ensure compatible use of the land in support of economic development. Property owners are provided fair market value in exchange for their land deed which prevents encroachment on military installations. Military installations in Arizona have a \$2 billion impact on the statewide economy and preserving the installations is in the best economic interest of Arizona.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Only minor, non-substantive grammatical, formatting, and clarifying changes were made between the proposed and the final rulemaking, including but not limited to the following: R8-3-101(6) and (3), clarified and updated statutory references for definitions; R8-3-102(C) clarified use of terminology; R8-3-106(1)(A), added statutory citation for the definition of "clear zone"; R8-3-110(A), reformatted strikethrough formatting for greater readability; R8-3-110(B), reworded application requirements; R8-3-111(B)(1) through (17), clarified terminology used; R8-3-117(B) through (D); made minor terminology changes and added a 60-day time period for the Adjutant General to issue an appeal decision if consulting the Land Department Board of Appeals for a fair market value opinion; R8-3-117(E), reworded to clarify the meaning of the appeal mentioned in that subsection.

Notices of Final Rulemaking

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No comments were made at the open public meeting held on December 27, 2012.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. § 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject matter of these rules because this was a state legislative change of the Military Installation Fund. The legislators moved the fund from the Department of Commerce to the Department of Emergency and Military Affairs.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The Department did not receive any such analysis.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

These rules contain no material incorporated by reference.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable to these rules.

15. The full text of the rule follows:

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

CHAPTER 3. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS

DIVISION OF MILITARY AFFAIRS

ARTICLE 1. MILITARY INSTALLATION FUND

Section

R8-3-101. Definitions

R8-3-102. Notice of Application Deadline and Public Comment Period

R8-3-103. Administrative Review

R8-3-104. Application for Acquisition of Private Property Approval of Expenditures of Monies or Funds

~~R8-3-107~~ R8-3-105. Department Solicitation of Comments Regarding Applications for Acquisition of Private Property

~~R8-3-109~~ R8-3-106. Department Scoring of Applications for Acquisition of Private Property

~~R8-3-108~~ R8-3-107. Department Report to Commission AMAC Regarding Applications for Acquisition of Private Property; and Notice of Hearing

~~R8-3-111~~ R8-3-108. Military Affairs Commission Recommendations AMAC Recommendation Regarding Applications for Acquisition of Private Property

R8-3-109. Process for Determining Acceptable Value for Expenditure of Funds

~~R8-3-106~~ R8-3-110. Leaving an Application for Acquisition of Private Property on File

~~R8-3-105~~ R8-3-111. Application for Funding for a Military Installation Preservation and Enhancement Project Funding

R8-3-112. Department Solicitation of Comments Regarding Applications for Funding for Military Installation Preservation and Enhancement Projects

~~R8-3-110~~ R8-3-113. Criteria for AMAC Evaluation of Applications for Funding for Military Installation Preservation and Enhancement Projects

R8-3-114. Notice of Hearing and AMAC Recommendation Regarding Applications for Funding for Military Installation Preservation and Enhancement Projects

~~R8-3-113~~ R8-3-115. Military Installation Preservation and Enhancement Project Reporting Requirements

~~R8-3-112~~ R8-3-116. Department Decision

~~R8-3-113~~ R8-3-117. Appeals

Notices of Final Rulemaking

ARTICLE 1. MILITARY INSTALLATION FUND

R8-3-101. Definitions

In addition to the definitions provided in A.R.S. § 26-261, the following definitions apply to this Article unless the context otherwise requires:

1. "Accident potential zone" has the meaning in A.R.S. §28-8461(1) and (2), as shown in the maps ~~incorporated by reference~~ referenced in subsection (4)(6).
2. "AMAC" means the Arizona Military Affairs Commission established under A.R.S. § 26-261.
- ~~2.3.~~ "Clear zone" has the meaning in A.R.S. § 28-8461(8).
4. "Conservation easement" has the meaning in A.R.S. § 33-271(1).
- ~~3.5.~~ "Development right" means the right to undertake and complete the development of real property for a particular use.
- ~~4.6.~~ "High noise zone" means an area designated as "a high noise zone" on the military ~~facility installation~~ maps listed below. The Maps are available from the Department, incorporated by reference, and do not include any later revisions; updated annually with State Land and Department of Real Estate. Current maps will be available from the Department of Real Estate):
 - a. ~~Airport Vicinity Map for Luke Air Force Base~~ Military Airport Map dated June 20, 2002;
 - b. ~~Luke AFB Air Force Base Auxiliary Airfield Map 1, dated March 1, 2004;~~
 - c. ~~Marine Corps Air Station Yuma Land Use Boundaries, dated July 19, 2001;~~
 - d. ~~Yuma Marine Corps Air Station~~ Military Airport Map Auxiliary Airfield 2, dated July 20, 2004;
 - e. ~~Gila Bend Auxiliary Airfield Map, dated October 8, 2004;~~
 - f. ~~Figure 5-1 (Notional Noise Contours) and Figure 5-2 (Compatible Land Use Plan Zones) from the Davis-Monthan Air Force Base~~ Military Airport Map Joint Land Use Study dated February 2004 and;
 - g. ~~Libby Army Airfield Fort Huachuca Military Airport Map Reservation, Map 7 from the City of Sierra Vista General Development Plan, dated October 24, 2002; and~~
 - h. Laguna Army Airfield Yuma Proving Ground (YPG) Military Airport Map
7. "Property management" means the preservation, transfer or disposal of property, including lease or sale of managed assets, consistent with the preservation or enhancement of military facilities in Arizona. Includes any structural renovations, construction of building modifications or improvements that mitigate or attenuate impact in high noise or accident potential zones, or removal of structures or improvements that are necessary for acquisition of private property for the purpose of protecting a military installation.
- ~~5.~~ "Military Affairs Commission" means the Arizona Military Affairs Commission established under A.R.S. § 26-261.
8. "MIF" means the Military Installation Fund established under A.R.S. § 26-262.
- ~~6.9.~~ "Military installation" has the meaning in A.R.S. § 26-261(F).
10. "Multi-use opportunity" means a chance to simultaneously benefit a military installation and the community in the vicinity of the military installation including associated airspace, military training routes and ranges.
- ~~7.11.~~ "Property" means all real property including all rights to the real property such as easements, restrictive covenants, and development rights.
12. "Department" means the Department of Emergency and Military Affairs.

R8-3-102. Notice of Application Deadline and Public Comment Period

- A. The Department shall ~~publish~~ provide notice of the application deadline for awards from the ~~military installation fund established under A.R.S. § 26-262 in a newspaper~~ MIF at least 60 days before the application deadline, as well as posting it on the Department's web site, announcing it to the news media, and making it available from the Department during normal working hours. The Department shall ensure that notice of the application deadline is:
 1. Published in the Arizona Administrative Register,
 2. Posted on the Department's web site, and
 3. Posted on the Arizona Military Affairs Commission meeting agenda.
- B. ~~The Department's notice shall state that copies of submitted applications will be available for public review at the Department and that members of the public may submit written comments to the Department within the time specified in the notice. The Department shall ensure that the notice provided under subsection (A) indicates that a property owner or jurisdiction interested in submitting an application is required to file an application form with the Department during normal working hours.~~
- C. The Department shall provide an application form and instructions to a property owner or jurisdiction upon request.
- D. The Department shall ensure that the notice provided under subsection (A) states that:
 1. A copy of submitted applications will be available for public review at the Department, and

Notices of Final Rulemaking

2. Members of the public may submit written comments to the Department about the submitted applications within the time specified in the notice.

R8-3-103. Administrative Review

~~The Department shall perform a review of an application within 45 days from the application deadline, and shall return any application not meeting the requirements of this Article with a written notice of deficiencies. The applicant may resubmit the application with the deficiencies corrected within 15 days from the date on the written notice of deficiencies. The Department shall reject any application not resubmitted with deficiencies corrected within the 15 days. The Department shall complete the administrative review in 60 days from the date of the application deadline, and shall not accept any further revisions or additions to any application after receipt of original application unless specifically requested by the Department.~~

- A. The Department shall perform an administrative review to determine whether an application is complete and complies with the requirements in this Article within 45 days after the application deadline.
- B. If the Department determines that an application is incomplete or does not comply with the requirements of this Article, the Department shall return the application to the applicant with a written notice of deficiencies that includes:
 1. One original and four legible copies of the completed application form;
 2. Supporting application documentation (one original and four copies);
 3. The name of contact person, and the contact person's title, telephone and fax number and if possible an email address;
 4. A legal description of the property;
 5. Statements regarding the property the owner is offering for sale;
 6. A map of the real property showing its relation to the specified military installation;
 7. The date the property was acquired by the current owners;
 8. The property owner's statement of legal ownership;
 9. A list of all recorded/unrecorded encumbrances, liens, mortgages or easements;
 10. A statement disclosing a phase one environmental inspection and the condition on the property;
 11. Narrative regarding the applicant's eligibility to apply for the MIF award under the criteria specified in the applicant;
 12. A description of the property owner's inability to use or limitation of use of the property;
 13. The amount of funds requested, and the source of any supplemental funding available;
 14. A description of measures taken by the applicant to mitigate the impact of the military installation on the property;
 15. Documents from the military installation, city, town, county or other entity or individuals that support or oppose the proposed land acquisition.
 16. The applicant's signature shall be notarized on the original application.
- C. An applicant whose application is returned with a written notice of deficiencies shall correct the deficiencies and resubmit the application within 15 days from the date on the notice of deficiencies.
- D. If an applicant whose application is returned with a written notice of deficiencies fails to correct the deficiencies and resubmit the application within the time provided under subsection (C), the Department shall close the file on the application unless the Department determines that it is in the best interest of the state to provide additional time for the applicant to submit a complete application.
- E. Except as provided in subsection (D), the Department shall complete the administrative review of an application within 60 days after the application deadline.
- F. The applicant is required to submit information changes within 15 days of a change in application facts.
- G. If any information in an application changes before monies are expended, the Department shall evaluate the changed information and decide whether it is possible to proceed with the application as amended or a new application is required.

R8-3-104. Application for ~~Acquisition of Private Property~~ Approval of Expenditures of Monies or Funds

- ~~A. The An~~ applicant shall submit ~~to the Department an application~~ original and four legible copies of ~~the a~~ completed application, using a form that is available from ~~to the Department~~.
- B. An applicant shall comply with the requirements of this Section ~~according to~~ on or before the deadline published under R8-3-102. The applicant shall provide the following information, on or with the application form:
 1. The property owner's name, mailing address, telephone number and, if available, fax number and e-mail address;
 2. ~~If applicable, the name of the property~~ Information about the property owner's representative or agent, ~~if applicable, including: and the~~
 - a. Name of representative or agent, mailing address, telephone number and, if available, fax number and e-mail address; ~~and~~
 - b. Name of contact person for the representative or agent and the contact person's title, telephone and fax numbers, and e-mail address;
 3. If the property owner is represented by another person, written consent for representation ~~that is~~ signed by the property owner ~~and notarized~~;
 4. A completed "Application Checklist" form which is available from the Department, listing all items included as part of the application;
 5. The legal description of the location of the property offered for acquisition;

Notices of Final Rulemaking

6. ~~A statement~~ If less than all of the property owned is being offered for acquisition, a description of the portion of the property the owner is offering for acquisition;
 7. ~~A map of the real applicable military installation showing the property showing its offered for acquisition in relation-~~
~~ship to the specified military installation;~~
 8. ~~The date the property was acquired by the current property owner;~~
 9. ~~A statement of legal ownership by the property owner~~ The name in which title to the property is held;
 10. ~~A list of all known recorded or unrecorded mortgages, encumbrances, liens, and easements on the property;~~
 11. ~~A statement disclosing any known hazardous environmental conditions on the property;~~
 12. ~~A written description of any improvements and the date the improvements were made upon the property;~~
 13. ~~12. A narrative explaining the applicant's eligibility to apply for an award funding from the military installation fund MIF;~~
 14. ~~13. The amount A request statement stating the amount of MIF funds monies being requested, and the amount and source of any supplemental funding available for the acquisition; along with a copy of the most recent notice of the property valuation provided by the county assessor in which the property is located and any other evidence used to determine the amount of funds to request;~~
 14. The amount and source of any supplemental funding available for the acquisition. Attach to the application verification from the source of the supplemental funding that supplemental funding is available and indicate whether there is a limitation on the availability or use of the supplemental funding;
 15. ~~A written explanation describing~~ description of the property owner's inability to use or limitation on the use of the property and how long the inability or limitation has existed due to state and or local military planning and zoning mandates;
 16. ~~A written explanation~~ description of measures taken by the applicant to mitigate the impact of the military installation on the property and the property owner;
 17. ~~Any document from the military installation, city, town, county, or other entity or individual that support or oppose the proposed acquisition; Any supporting or opposing documents from a military installation, city, town, or county related to the proposed acquisition;~~
 18. ~~A written explanation or other documentation providing information the applicant believes will assist the Department and the Military Affairs Commission~~ AMAC regarding the acquisition request; and
 19. ~~The signature of the property owner or the owner's representative verifying that all information in the application is accurate and correct to the best of the property owner's or the representative's knowledge, under penalty of perjury.~~
- C.** If any of the information submitted in the application changes, an applicant shall provide written notice no later than 15 days before the close of the administration review period established under R8-3-103(A). If information changes within 15 days of the close of the review period, the applicant shall notify the Department of the change and the Department shall consider the best interests of the state in deciding whether to consider the application. The following changes require specific information to be included in the notice:
1. If ownership of the property changes, the new owner shall ensure that the required notice:
 - a. Is signed and notarized by the new owner and indicates whether the new owner wants the Department to continue to consider the application;
 - b. Updates the information contained in the application; and
 - c. Contains copies of legal documents evidencing the change in ownership; or
 2. If use of the property changes, the owner of the property shall ensure that the required notice describes the nature of the changed use.

~~**R8-3-107-R8-3-105. Department Solicitation of Comments Regarding Applications for Acquisition of Private Property**~~
~~Before providing the Military Affairs Commission with its recommendation regarding an application, To assist the Department in scoring an application for the acquisition of private property and making a recommendation regarding the application to AMAC, the Department shall contact solicit written comments regarding the application from personnel of the applicable military installation, city, town, county, and any other entity that may have an interest in the application. Responses to solicited comments will be placed on the AMAC committee agenda for review prior to final property acquisition approval. The Department shall request written comments regarding the application.~~

R8-3-109-R8-3-106. Department Scoring of Applications for Acquisition of Private Property

The Department shall rank applications in order of score. The Department shall use the following evaluation criteria to score applications for acquisition of private property. The Department shall give an application a score under either subsection (1) or (2) but not both:

1. Location of the property. When there is a range of points, the Department shall assign the highest score to property in closest proximity to a runway. If the property is in more than one zone, the Department shall assign the highest applicable score.
 - a. Clear zone as defined in A.R.S. § 28-8461(8): 300 points;
 - b. Accident potential zone 1 as defined in A.R.S. § 28-8461(1): 250-290 points;

Notices of Final Rulemaking

- c. Accident potential zone 2 ~~as defined in A.R.S. § 28-8461(2), including compatible use zone II as shown in the map incorporated by reference in R8-3-101(4)(f);~~ 200-240 points;
- d. High noise zone, according to the day-night sound levels in decibels under A.R.S. § 28-8481(J):
 - i. Decibel level 85 or more: 190 points;
 - ii. Decibel level 80-84: 175 points;
 - iii. Decibel level 75-79: 160 points;
 - iv. Decibel level 70-74: 140 points; or
 - v. Decibel level 65-69: 125 points.
- 2. Property located outside of ~~a clear zones zone,~~ accident potential ~~zones zone,~~ and high noise ~~zones zone,~~ but which, based on written input from authorized personnel of the applicable military installation, is vital to the preservation or enhancement of a military installation: 0 -175 points;
- 3. The extent of the property owner's inability to use, or limitation on the use of the property according to zoning regulations ~~and or~~ state statute enacted for the preservation of the military installation: 0 - 95 points;
- 4. ~~Based on written input, the~~ The extent to which acquisition of the property by the state may prevent or reduce encroachment or other activity that could hinder preservation of the military installation or its ability to accomplish its mission: 0 - 90 points;
- 5. ~~The length of time that the property has been owned by the applicant, with the highest score going to the longest period of ownership: 0 - 80 points; and~~ The amount of supplemental funding, if any, as a percentage of the estimated value of the property:
 - a. At least 5 percent supplemental funding: 10 points, and
 - b. For each additional percentage point of supplemental funding: 1 point to a maximum of 100 points for 95 percent supplemental funding; and
- 6. ~~Measures the applicant has taken to preserve the military installation or to mitigate any impacts of the military installation: 0 - 60 points. The economic efficiency of using MIF to acquire the property: 0 to 100 points.~~

R8-3-108-R8-3-107. Department Report to ~~Commission~~ AMAC Regarding Applications for Acquisition of Private Property; and Notice of Hearing

- A. The Department shall compile and forward to ~~the Military Affairs Commission~~ AMAC a report that includes the following:
 - 1. ~~All applications~~ Applications for expenditures of funds accepted as complete under R8-3-103;
 - 2. ~~Any written~~ Written comments received under ~~R8-3-102(B) R8-3-102(D) and R8-3-107; R8-3-105;~~
 - 3. ~~All evaluation~~ Evaluation scores and ranking under ~~R8-3-109; R8-3-106;~~
 - 4. Available funding calculated using the ~~funding~~ formula under A.R.S. § 26-262(G); and
 - 5. The recommended funding distribution.
- B. At least 14 days before the ~~Commission~~ AMAC meeting at which applications for acquisition of private property will be considered, the Department shall provide each applicant with a written notice of the date, time, and location of the meeting, and a copy of the portions of the Department's report relevant to the applicant's property.

R8-3-111-R8-3-108. Military Affairs Commission Recommendations ~~AMAC Recommendation Regarding Applications for Acquisition of Private Property~~

- A. The Military Affairs Commission AMAC shall review the Department's report under ~~R8-3-108 R8-3-107.~~ The Commission may allow oral testimony at its open meeting for review of applications.
- B. If AMAC determines that oral testimony regarding an application for acquisition of private property will assist AMAC to make a recommendation, AMAC shall allow oral testimony at the open meeting for review of applications.
- ~~B.C.~~ The Military Affairs Commission AMAC shall determine base its recommendation to the Department based upon on AMAC's assessment of:
 - 1. The likelihood ~~of the proposed project or the~~ that acquisition of the private property ~~to will~~ preserve and enhance the mission of a military installation, and
 - 2. The economic efficiency of applying ~~the fund~~ MIF monies for the greatest protection or enhancement of a military installation.
- ~~C.D.~~ The Commission AMAC shall transmit its written recommendation under A.R.S. § 26-262(D) to the Department, including any direction and directions or alternatives to the Department, within seven days of after its decision.

R8-3-109. Process for Determining Acceptable Value for Expenditure of Funds

- A. The Department shall not pay more than fair market value to acquire private property using MIF monies.
- B. To determine the fair market value of private property to be acquired using MIF monies, the Department shall have the private property appraised by a professional appraiser who is under contract with the state.
- C. A property owner that disagrees with the fair market value determined under subsection (B) may appeal the determination under R8-3-117.
- D. For all other expenditures of funds relating to property preservation, the Department shall follow guidelines found in Title 41, Chapter 23, Article 5 relating to construction, building improvement and procurement standards.

Notices of Final Rulemaking

~~R8-3-106~~R8-3-110. Leaving an Application for Acquisition of Private Property on File

- A.** An applicant ~~that submits a complete application under R8-3-104~~ may leave ~~a complete~~ the application with no deficiencies on file with the Department for a maximum of five years. ~~The Department shall consider the application each year along with all new applications received if the applicant submits a written request to the Department during the annual application period under R8-3-102. The Department shall rank each application each year regardless of years under consideration. The applicant shall include the following information in the written request:~~
- B.** An applicant that leaves a complete application on file with the Department under subsection (A) may request that the Department consider the application in a subsequent year. To request that the application be considered in a subsequent year, the applicant shall submit to the Department a written request before the application deadline specified under R8-3-102. The applicant shall include the following information in the written request:
1. ~~The name of the property owner, or the name of the requesting jurisdiction,~~ as originally filed with the Department; and
 2. Either a statement that the information in the application as previously submitted is current, or a statement of specific amendments to the original application.
- C.** If the Department receives a request under subsection (B), the Department shall score and rank the application under R8-3-106 with other applications for acquisition of private property.

~~R8-3-105~~R8-3-111. Application for Funding for a Military Installation Preservation and Enhancement Project Funding

- A.** A city, town, or county seeking funding for a military installation preservation and enhancement project ~~(project)~~ shall submit an original ~~application~~ and four legible copies of ~~the a~~ completed application to the Department, using a form that is available from the Department, as prescribed in this Section and according to by the deadline published under R8-3-102. The applicant under this Section is the representative authorized by the requesting jurisdiction.
- B.** The applicant shall provide the following information, ~~as applicable~~, on or with the application form:
1. The name of the requesting jurisdiction;
 2. The name of military installation that will be preserved or enhanced by the proposed project;
 - ~~2-3.~~ The applicant's name, mailing address, telephone number and, if available, fax number and e-mail address;
 4. The name of contact person if other than the applicant and the contact person's title, mailing address, telephone and fax numbers, and e-mail address;
 - ~~3-5.~~ The date on which the requesting jurisdiction approved the project request was approved by the requesting jurisdiction and authorized submission of the application for funding. Attach to the application evidence that the application was authorized by the jurisdiction;
 6. Whether the proposed project involves acquisition of private property;
 - ~~4-7.~~ A completed "Application Checklist" which is a form available from the Department, listing all items included as part of the application;
 - ~~5-8.~~ The names of the persons or organizations, if any, with which the jurisdiction will work with on the proposed project;
 - ~~6-9.~~ The name and brief summary of the proposed project with a brief summary of the project proposal;
 10. If funding is obtained, an estimated project timeline including the dates on which the project is expected to begin and be completed;
 11. Statements explaining the following:
 7. a. A written narrative explaining the project in detail, including how it How the proposed project will preserve or enhance the military installation and any proposed starting and ending dates;
 8. The estimated budget for the project, with a description of any other funding source that may be used;
 9. The amount of funding requested from the military installation fund;
 10. If the project includes proposed acquisition of private property, the information and items required under R8-3-104, as applicable;
 - ~~11- b.~~ A statement of any past Past action taken by the jurisdiction to preserve or enhance the military installation;
 - c. Whether and how the proposed project involves a multi-use opportunity; and
 - d. Whether and how the proposed project will mitigate impacts of the military installation on the surrounding community;
 12. Total budget for the proposed project including:
 - a. The amount of funding requested from MIF, and
 - b. The amount of funding from another source including the identity of the other source, including verification from the source of the other funding and whether there is a limitation on the availability or use of the other funding;
 13. If the proposed project involves acquisition of private property:
 - a. The name, mailing address, telephone number and, if available, fax number and e-mail address of the property owner;
 - b. The legal description of the location of the property to be acquired;
 - c. A map of the applicable military installation showing the property to be acquired in relationship to the military installation; and

Notices of Final Rulemaking

- d. An appraisal of the property to be acquired that is:
 - i. Prepared by an appraiser under contract with the state, and
 - ii. Completed no more than 60 days before the date of application;
- ~~12-14.~~ Any documents from the military installation, city, town, or county, ~~or other entity or individual~~ that support or oppose the proposed project;
- ~~13-15.~~ A written explanation or ~~other~~ documentation the applicant believes will assist the Department and the Military Affairs Commission AMAC regarding the proposed project request application; and
- ~~14-16.~~ The signature of the applicant verifying that all information in the application is accurate and correct, to the best of the applicant's knowledge, under penalty of perjury; and
- 17. A signed offer, using a form available from the Department, to the state of Arizona.

R8-3-112. Department Solicitation of Comments Regarding Applications for Funding for Military Installation Preservation and Enhancement Projects

To assist AMAC in evaluating an application for funding for a military installation preservation and enhancement project, the Department shall solicit written comments regarding the application from authorized personnel of the applicable military installation. The Department shall ask authorized personnel of the military installation to:

- 1. Indicate whether the military installation supports the proposed project; and
- 2. If multiple projects are proposed for the same military installation, rank the proposed projects in priority order.

~~R8-3-110.~~R8-3-113. Criteria for AMAC Evaluation of Applications for Funding for Military Installation Preservation and Enhancement Projects

The Military Affairs Commission AMAC shall consider use the following criteria in evaluating to evaluate an application for funding for a military installation preservation and enhancement projects project submitted under ~~R8-3-105~~ R8-3-111:

- 1. How the proposed project will preserve or enhance the military installation;
- 2. The availability of additional funding for the project from other sources;
- 3. Whether acquisition of property for the project could prevent or reduce encroachment or other activity that could hinder preservation of the military installation, or the ability to accomplish its mission;
- ~~4-2.~~ Past actions taken by the jurisdiction to preserve the military installation;
- ~~5-3.~~ Whether ~~or~~ and how the proposed project will improve the condition of the military installation, land, facilities, or associated airspace through involves a multi-use opportunities opportunity; and
- ~~6-4.~~ Whether ~~or~~ and how the proposed project will mitigate impacts of the military installation on the surrounding community;
- 5. The percentage of the total budget for the proposed project to be provided by sources other than MIF;
- 6. Comments from authorized personnel of the applicable military installation submitted in response to the Department's solicitation issued under R8-3-112; and
- 7. If the proposed project involves acquisition of private property, extent to which acquisition of the private property will prevent or reduce encroachment or other activity that could hinder preservation of the military installation or the ability of the military installation to accomplish its mission.

R8-3-114. Notice of Hearing and AMAC Recommendation Regarding Applications for Funding for Military Installation Preservation and Enhancement Projects

- A.** When AMAC completes the evaluation of applications for funding for military installation preservation and enhancement projects, AMAC shall ensure that applicants are provided written notice of the AMAC meeting at which the applications will be considered.
- B.** AMAC shall ensure that the written notice required under subsection (A) is provided at least 14 days before the AMAC meeting at which the applications will be considered and specifies the date, time, and location of the meeting.
- C.** If AMAC determines that oral testimony regarding an application for funding for a military installation preservation and enhancement project will assist AMAC to make a recommendation, AMAC shall allow oral testimony at the open meeting for review of applications.
- D.** AMAC shall base its recommendation to the Department on AMAC's assessment of:
 - 1. The likelihood that the proposed project will preserve and enhance the applicable military installation, and
 - 2. The military installation preservation and enhancement benefits from the proposed project justify the cost to MIF.
- E.** AMAC shall transmit its written recommendation under A.R.S. § 26-262(D) to the Department, including any directions or alternatives, within seven days after its decision.

~~R8-3-113.~~R8-3-115. Military Installation Preservation and Enhancement Project Reporting Requirements

- A.** For the purpose of this Section, a "successful applicant" is any jurisdiction awarded MIF funds monies under this Article for a military installation preservation and enhancement project from the military installation fund under this Article.
- B.** Each ~~A~~ successful applicant shall provide the Department with a written report within six months of the Department's decision under R8-3-112 on the regarding progress of the military installation preservation and enhancement project, for which it received funds, and shall include in the report and an accounting of military installation fund MIF monies

Notices of Final Rulemaking

received and used. ~~The successful applicant shall make additional written reports to the Department every six months until completion of the project, or until all requirements for the acquisition are completed, at the times specified by the Department in the contract between the Department and the successful applicant.~~

~~R8-3-112~~**R8-3-116. Department Decision**

- A.** ~~The After~~ After AMAC forwards its recommendations to the Department, ~~the Department~~ shall review the recommendations ~~of the Military Affairs Commission~~ and decide whether to:
- ~~1. accept, Accept AMAC's recommendation and award the recommended amount to an applicant;~~
 - ~~2. accept Accept AMAC's recommendation but award with a reduced amount to an applicant; or~~
 - ~~3. deny an application submitted under R8-3-104 or R8-3-105, and Reject AMAC's recommendation and deny an award to an applicant.~~
- B.** The Department shall provide ~~each an~~ applicant with a copy of its written decision within 21 days ~~of the Military Affairs Commission's after AMAC's recommendation.~~ The Department shall include in its written decision the ~~reasons~~ reason for ~~denial or reduction denying or reducing an award~~ and include a copy of ~~R8-3-114~~ R8-3-117.
- C.** If the Department decides to award funding for the acquisition of private property, the Department shall make the property owner an offer to purchase the property. The Department shall inform the property owner that the offer to purchase is open for only 90 days and if the offer to purchase is not accepted within the 90 days, funding for acquisition of the private property may no longer be available.
- D.** If a property owner accepts an offer to purchase made under subsection (C), the Department shall ensure that the purchase contract specifies that ~~Payment payment~~ from the fund for acquisition of private property ~~MIF~~ is contingent upon satisfactory completion of legal requirements for acquisition of the property within nine months of the ~~Department's~~ written decision issued under subsection (B).

~~R8-3-113~~**R8-3-117. Appeals**

- A.** The following applicants may appeal a decision by the Department:
- An applicant that is denied MIF funding.
 - An applicant that is awarded MIF funding for a military installation preservation and enhancement project but the amount awarded is less than the amount recommended by AMAC, and
 - A property owner that disagrees with the fair market value determined for the property.
- ~~A.B.~~ An applicant whose application for military installation funding is denied or the amount reduced by the Department may file an To appeal a decision made by the Department, the affected person (Appellant) shall ~~with the Department by submitting~~ submit a letter to the ~~Director Adjutant General~~ providing reasons for protesting the decision within 30 days of the date ~~of printed on the final~~ written decision issued under R8-3-112 R8-3-116(B). The appellant shall ensure that the letter clearly states the legal or factual basis for the appeal.
- C.** If an appeal is about the fair market value of property and the Adjutant General determines that assistance regarding the fair market value of the property will be useful, the Adjutant General shall ask the Land Department Board of Appeals for an opinion regarding the fair market value of the property.
- ~~B.D.~~ The Director Adjutant General shall review the substance of the protest appeal, make a final decision, and respond in writing by mail to the applicant appellant, within 30 days. of receipt of the protest If the Adjutant General consults the Land Department Board of Appeals during the review under subsection (C), the final decision shall be rendered and written notice provided to the appellant within 60 days. after receiving the appeal letter or within 30 days after receiving an opinion from the Land Department Board of Appeals whichever is earlier.
- ~~C.E.~~ Appeals from the Department decision are prescribed in A.R.S. Title 41, Chapter 6 Article 10, Uniform Administrative Hearing Procedures. If the appellant disagrees with the decision made by the Adjutant General, the appellant may submit in writing a request for a hearing, which shall be scheduled and heard in accordance with A.R.S. Title 41, Chapter 6, Article 10.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 623.)

[R13-34]

PREAMBLE

Notices of Final Rulemaking

1. **Article, Part, or Section Affected (as applicable)**

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R12-4-501	Amend
R12-4-502	Amend
R12-4-503	Amend
R12-4-504	Amend
R12-5-505	Amend
R12-4-506	Amend
R12-4-507	Amend
R12-4-508	Amend
R12-4-509	Amend
R12-4-510	Amend
R12-4-511	Amend
R12-4-512	Amend
R12-4-513	Amend
R12-4-514	Amend
R12-4-515	Amend
R12-4-516	Amend
R12-4-519	Amend
R12-4-520	Amend
R12-4-521	Amend
R12-4-522	Amend
R12-4-523	Amend
R12-4-525	Amend
R12-4-526	Amend
R12-4-527	Amend
R12-4-528	Amend
R12-5-529	New Section

2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 5-302 and 5-311(A)(1)

Implementing statute: A.R.S. §§ 5-311(A)(5), 5-321, 5-322, 5-326, 5-327, 5-331, 5-332, 5-336, 5-341, 5-349, 5-350, 5-361, 5-371, 5-391, 5-399, 5-399.01, 5-399.02, and 5-399.03

3. **The effective date of the rule:**

July 1, 2013

 - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable
 - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

The Commission requests a later date to allow for implementation of the rule changes.

4. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 2505, October 5, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2437, October 5, 2012

5. **The agency's contact person who can answer questions about the rulemaking:**

Name: Madelynn Fenske, Watercraft Administrator

Address: Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086

Telephone: (623) 236-7403

Fax: (623) 236-7919

E-mail: MFenske@azgfd.gov

Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml.

6. **An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include**

Notices of Final Rulemaking

an explanation about the rulemaking:

The Commission proposes to amend rules within Article 5 to implement statutory amendments resulting from Laws 2012, 2nd Regular Session, Ch. 237, which amended statutes governing watercraft registration fees and established the Nonresident Boating Safety Infrastructure fee and decal. Amendments are also proposed to implement amendments made to U.S. Coast Guard regulations regarding the state of principal operation, hull identification numbers, and the data each state is required to maintain for registered watercraft. In addition, the Commission proposes to amend rules within Article 5 to effect recommendations proposed in the Five-year Review Report, approved by the Governor's Regulatory Review Council on June 7, 2011.

In addition to the nonsubstantive amendments that update the Department's address and statutory references, where appropriate, and amendments made to ensure compliance with the Administrative Procedures Act (APA), Secretary of State (SOS), and the Governor's Regulatory Review Council (G.R.R.C.) rulemaking format and style requirements; the Commission proposes the following substantive amendments:

R12-4-501 is amended to transfer all definitions contained within Article 5 to this rule. The rule is amended to refine the definition for "abandoned watercraft" to clearly establish the criteria for determining whether a watercraft is truly abandoned. In addition, the rule is amended to clarify regulatory marker definitions for "boats keep out," "no ski," and "no wake." The rule is amended to define "junk watercraft" to clarify amendments made to R12-4-507 regarding a new process designed to assist government agencies in disposing of abandoned junk watercraft. The rule is also amended to define "motorized watercraft" to further clarify watercraft subject to registration requirements and to move the statement, "Only motorized watercraft are subject to registration" to R12-4-502 as this is more appropriately a condition for watercraft registration than a definition. The rule is amended to define "Nonresident Boating Safety Infrastructure Decal" to communicate the Department's interpretation of A.R.S. § 5-327 to the public. The rule is also amended to reflect amendments made to U.S. Coast Guard regulations regarding the state of principal operation. In addition, the rule is amended to remove the reference to "flat wake under A.R.S. § 5-350" to clarify the rule.

R12-4-502 is amended to transfer the statement "Only motorized watercraft are subject to registration" from R12-4-501 as this is more appropriately placed in the application for watercraft registration rule. The rule is amended to require an individual applying for watercraft registration to provide the watercraft engine drive type and make and model on the application for watercraft registration to comply with recent amendments made to U.S. Coast Guard regulations. The rule is amended to reflect amendments made to U.S. Coast Guard regulations regarding the state of principal operation. The rule is amended to address situations where a watercraft is owned by a business or held in a trust to clarify watercraft owner information requirements and to expand joint tenancy ownership requirements to address situations where a watercraft owner is declared incompetent. The rule is also amended to require the applicant's signature on the Statement of Fact form be either witnessed by a Department employee or notarized to emphasize the fact that the applicant is responsible for providing true and accurate information for the undocumented watercraft. In addition, the rule is also amended to remove language regarding the proof of ad valorem property tax payment for commercial watercraft as the authorizing statute was repealed.

R12-4-503 is amended to remove language regarding the mailing of the renewal notice as this is an internal process and is not required in rule. The rule is amended to require the watercraft owner to renew a watercraft registration before it expires to better regulate the Department's workload throughout the year as registration renewals tend to increase greatly when boating season starts. The rule is also amended to remove language regarding the ability to register a watercraft by telephone to reflect current watercraft registration payment services. In addition, the rule is amended to remove language referencing the Department's registration renewal time-frame because registration renewals are issued upon receipt of a completed application and the applicable fee.

R12-4-504 is amended to remove language regarding the collection of license tax and the Indian and Soldier license tax exemptions as the authorizing statute was repealed.

R12-4-505 is amended to require the hull identification number (HIN) for all watercraft manufactured after November 1, 1972 to meet requirements prescribed under 33 CFR 181, subpart C to comply with amendments made to U.S. Coast Guard regulations. The rule is also amended to require watercraft owners to ensure the hull identification number (HIN) is fully visible and unobstructed for all watercraft manufactured after August 1, 1984. This is proposed to assist law enforcement in identifying registered watercraft by prohibiting a watercraft owner from covering or obstructing the HIN with an after-market accessory, paint, gel coat, etc. In addition, the rule is amended to require watercraft owners to certify they have permanently affixed the Department assigned HIN to their watercraft within 30 days after receiving the Department assigned HIN to comply with amendments made to U.S. Coast Guard regulations.

R12-4-506 is amended to reflect amendments made to U.S. Coast Guard regulations regarding the state of principal operation.

R12-4-507 is amended to transfer all definitions to R12-4-501. The rule is amended to allow only the owner of the private property, where a watercraft is left unattended, to attempt to obtain ownership of the abandoned watercraft by way of the abandoned watercraft transfer process. This is proposed to prevent an individual who is renting property where a watercraft is stored or a person who found an abandoned watercraft on public lands or waterways from using the abandoned watercraft process to obtain ownership to a watercraft. The rule is amended to prohibit the use of the abandoned watercraft process when fees for a repair or service remain unpaid because the mechanic or material lien

Notices of Final Rulemaking

process is required by statute. The rule is amended to prohibit the use of the abandoned watercraft process when a watercraft remains in storage under a written rental agreement because the storage lien process is required by statute. The rule is amended to allow only a person acting within the scope of official duties as an employee or authorized agent for a government agency to order the removal of an abandoned watercraft left on public property or a public waterway to prevent a private individual from illegally removing a watercraft to attempt to transfer ownership by way of the abandoned watercraft process. The rule is amended to clarify that this state, its agencies, employees, and agents are not liable for relying in good faith on the contents of the application. The rule is amended to require an applicant's signature to be either witnessed by a Department employee or notarized to emphasize the fact that the applicant is responsible for providing true and accurate information. The rule is amended to state the Department will take the appropriate action only when service of the intent notice is successful and the Department received the receipt for the intent notice to ensure due process requirements are met. The rule is amended to state the Department will publish one notice of intent to transfer to ensure due process requirements are met, and provide information regarding the options available to an applicant after the Department completes its attempt to identify and contact the registered owner to ensure the public is aware of the possible outcomes. In addition, the rule is amended to provide a mechanism that allows a government agency to dispose of junk watercraft left on state or federal lands or waterways to eliminate the requirements that the government agency apply for watercraft registration using the abandoned watercraft process and the Department issue a certificate of number and registration decals for a watercraft that is earmarked for disposal. This amendment was requested by Mohave County Parks personnel.

R12-4-509 is amended to replace the term “agent” with “dealer”, where applicable, to clarify the regulated community. The rule is amended to require a watercraft dealer to collect the Nonresident Boating Safety Infrastructure Fee, when applicable, to ensure compliance with A.R.S. § 5-327. The rule is amended to remove the requirement that the watercraft dealer provide the certificate of origin to the purchaser to reflect current Department processes. The rule is amended to require the watercraft dealer to provide the original certificate of origin to the Department, instead of the purchaser, to incorporate best practices endorsed by the National Association of State Boating Law Administrators. The rule is amended to remove language referencing watercraft license tax as the authorizing statute was repealed. The rule is amended to allow a watercraft dealer to submit the required fees electronically to reflect a process currently offered by the Department. The rule is also amended to exempt a watercraft dealer who submits all applications via the Department's online application system from the reporting requirement as the required information is electronically captured at the time of application, making the reporting requirement for those watercraft dealers unnecessary. In addition, the rule is amended to expand payment types and reasons a financial institution may dishonor a payment to reflect current business practices.

R12-4-510 is amended to reference the Nonresident Boating Safety Infrastructure Fee to increase consistency between rules within Article 5.

R12-4-512 is amended to require a watercraft operator to ensure fire extinguishers are readily accessible and available for immediate use to clarify requirements prescribed under A.R.S. § 5-332.

R12-4-513 is amended to replace form specific requirements with general requirements, such as “Operator’s personal information” instead of “Operator’s name, address, date of birth, gender, and telephone number” to enable the Department to promptly comply with amendments made to the U.S. Coast Guard watercraft accident and casualty reporting regulations without having to use the rulemaking process. The rule is also amended to clarify when and where the report should be submitted and to remove duplicative language to clarify the rule.

R12-4-515 is amended to correct statutory references to clarify the rule. The rule is amended to provide the AZ number display requirements in a list to make the rule easier to understand. The rule is amended to replace the term “annual decal” with “registration decal”. In addition, the rule is amended to reference R12-4-506(C), which requires the watercraft owner to surrender any revoked certificate of number, AZ number, registration decal, and Nonresident Boating Safety Infrastructure decal to ensure consistency between rules within Article 5.

R12-4-516 is amended to specify where items incorporated by reference are available. The rule is also amended to state items incorporated by reference may be viewed at any Department office to comply with the requirements prescribed under A.R.S. § 41-1028(D) and to clearly demonstrate the Department's compliance with federal copyright laws.

R12-4-519 is amended to comply with amendments made to the U.S. Coast Guard regulations regarding state of principal operation.

R12-4-522 is amended to specify the information required in the written report submitted by an agency placing or removing controlled use markers on waterways in this state to clarify the rule and ensure the appropriate information is contained in the initial report. This is proposed to reduce the time spent by Department and agency personnel in gathering and supplying all of the required information. In addition, the rule is amended to require requests to establish, change, or remove controlled-use markers be made in writing to properly document requests and reflect the Department’s current process.

R12-4-525 is amended to clarify the subject matter addressed in the rule by revising the rule heading. The rule is amended to include the Nonresident Boating Safety Infrastructure decal to ensure consistency between Article 5 rules. The rule is also amended to extend the time in which a person has to request a hearing to 30 days and the time in which the Department must schedule a hearing to 60 days. This is proposed to reduce the regulatory burden on

Notices of Final Rulemaking

both the regulated community and the Department. In addition, the rule is amended to specify the items being revoked by the Department to clarify the rule.

R12-4-526 is amended to cross-reference the statutory definition for “person” to expand the regulated community to include any individual, firm, corporation, partnership or association, and any agent, assignee, trustee, executor, receiver or representative thereof and replace the term “individual” with “person” to reduce the burden on officers when trying to locate the individual who moored a watercraft unlawfully.

R12-4-527 is amended to remove the requirement that the towing company present the watercraft to a regional office. This is proposed to reduce the burden on both the towing company and Department regional office staff. In addition, the rule is amended to remove unnecessary statutory references to make the rule less cumbersome and easier to understand.

R12-4-529 is adopted to establish how a person, subject to the requirements established under A.R.S. §§ 5-326 and 5-327, shall carry and display proof of payment of the Nonresident Boating Safety Infrastructure Fee and the manner in which the nonresident watercraft owner shall affix the Nonresident Boating Safety Infrastructure Decal to their watercraft.

R12-4-508, R12-4-511, R12-4-514, R12-4-520, R12-4-521, R12-4-523, and R12-4-528 are amended only to ensure conformity with the APA and SOS and G.R.R.C.’s rulemaking format and style requirements.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not rely on any study in its evaluation of or justification for the rule.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

For R12-4-501, enforcement of the rule manifests itself through proper administration. It is not the term that is cited, but the violation. Thus, The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-502, the proposed amendments are made to clarify the rule, comply with recent amendments made to U.S. Coast Guard regulations, and emphasize the applicant's responsibility to provide true and accurate information. Requiring the applicant's signature on the Statement of Fact form to be either witnessed or notarized may result in an insignificant impact due to the time taken to go to a Department office or notary and in some cases a notary service fee may apply (R2-12-1102 limits the fee to \$2 per signature). The Statement of Fact form is used when the applicant is unable to present proof of ownership for a watercraft, such as a bill of sale, title, or registration. The Commission believes it is appropriate to require acknowledgment of the applicant's signature on the Statement of Fact form.

For R12-4-503, the proposed amendments are made to reflect current Department processes or remove information that is not required under A.R.S. Title 41, Chapter 6, Article 7.1 because registration renewals are issued upon receipt of a completed application and the applicable fee. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-504, the proposed amendment simply removes references to taxes and tax exemptions as the authorizing statute was repealed. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-505, the proposed amendments are made to assist law enforcement in identifying registered watercraft and comply with amendments made to U.S. Coast Guard regulations. The Commission anticipates requiring watercraft owners to ensure the hull identification number (HIN) is fully visible and unobstructed for all watercraft manufactured after August 1, 1984 may result in a significant impact to persons who may have to remove an obstruction in order to comply with the proposed rule. Costs to move a platform or remove gel coat may range from \$200 to \$5,000, depending on the size of the watercraft or location of the after-market accessory. The Commission has determined requiring a watercraft owner to certify they have permanently affixed the Department-assigned HIN to their watercraft is the least burdensome way to comply with amendments made to U.S. Coast Guard regulations. Other options considered by the Commission included requiring the Department to either affix the HIN or inspect the watercraft after the owner affixed the HIN. Department-assigned HINs may be bonded, burned, carved, embossed, molded, or otherwise permanently affixed to the watercraft. The Commission believes the Department would incur significant costs due to the required equipment, the time taken to train an employee to properly affix a HIN, the time taken to permanently affix the HIN, and any potential liability claims if a watercraft is damaged while the Department employee affixes the HIN. The Commission believes both the watercraft owner and Department will incur costs if an inspection is required to ensure the HIN is affixed; the watercraft owner would incur costs associated with transporting the watercraft to a Department office and the Department would incur costs due to the time taken to conduct the inspection. The Commission believes requiring a watercraft owner to self-certify the Department-assigned HIN is permanently affixed is the least burdensome method.

Notices of Final Rulemaking

For R12-4-506, the proposed amendments simply correct statutory references and reflect amendments made to U.S. Coast Guard regulations regarding the state of principal operation. U.S. Coast Guard regulations were amended to reference “state of principal operation” instead of “state of principal use” to reflect language used in the recreational boating regulations contained in 46 USC. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-507, overall, the proposed amendments are made to reflect current Department processes and comply with statutory requirements. The Mohave County Parks Department submitted a comment, during the five-year review process, suggesting the Department and affected government agencies would benefit from a rulemaking that allows the Department to issue a letter instead of certificate of number, AZ numbers, and registration decals for a watercraft earmarked for disposal due to the recent influx of watercraft in the area. The Commission anticipates the proposed amendments that establish a method to allow a government agency to dispose of junk watercraft will have little or no impact on the Department or regulated community. This is a result of industry-wide waste management company policies that require proof of ownership before accepting a watercraft for disposal. Calls made to companies located within Arizona confirmed these companies would be willing to accept any lawful documentation issued by the Department. Government agencies would benefit from a rulemaking that allows the agency to dispose of junk watercraft without having to assume ownership.

For R12-4-509, proposed amendments are made to correct statutory references, ensure compliance with A.R.S. § 5-327, reflect current Department processes, and remove language referencing the repealed watercraft license tax. Overall, the proposed amendments either make the rule less burdensome or comply with statutory mandates.

For R12-4-510, proposed amendments are made to increase consistency between rules within Article 5. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-512, the proposed amendment clarifies the fire extinguisher requirements prescribed under A.R.S. § 5-332. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-513, proposed amendments are made to enable the Department to promptly comply with amendments made to the U.S. Coast Guard regulations, clarify the rule, and remove duplicative language. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-515, proposed amendments are made to correct statutory references, clarify the rule, and ensure consistency between rules within Article 5. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-516, proposed amendments are made to comply with the requirements prescribed under A.R.S. § 41-1028(D) and demonstrate the Department's compliance with federal copyright laws. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-519, the proposed amendment is made to comply with amendments made to U.S. Coast Guard regulations. U.S. Coast Guard regulations were amended to reference “state of principal operation” instead of “state of principal use” to reflect language used in the recreational boating regulations contained in 46 USC. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-522, proposed amendments are made to reduce the time spent by Department personnel in gathering required information from the submitting agency and clarify controlled marker request requirements. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-525, proposed amendments are made to correct statutory references and time-frames, ensure consistency between Article 5 rules; and reduce the regulatory burden on both the regulated community and the Department. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-526, proposed amendments are made to correct statutory references and reduce the burden on officers when trying to locate the individual who moored a watercraft unlawfully. The Commission anticipates the proposed amendments will benefit the while having little or no impact on the regulated community.

For R12-4-527, the proposed amendments are made to reduce the burden on both the towing company and Department regional office staff and make the rule less cumbersome. The Commission anticipates the proposed amendments will benefit both the Department and the regulated community.

For R12-4-529, the proposed rule establishes how an individual shall comply with the requirements established under A.R.S. §§ 5-326 and 5-327. The Commission believes the compliance requirements specified in the new rule are the least burdensome. The Commission anticipates the proposed amendments will have little or no impact on the Department or regulated community.

For R12-4-508, R12-4-511, R12-4-514, R12-4-520, R12-4-521, R12-4-523, and R12-4-528 amendments were made to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's and G.R.R.C.'s rulemaking format and style requirements. Since the proposed amendments are nonsubstantive, The Commission anticipates the proposed amendments will have no impact on the Department or regulated community.

Notices of Final Rulemaking

Overall, the Commission anticipates the proposed rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. The Commission anticipates both the Department and the regulated community will benefit from rules that are more concise.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

R12-4-501, defined “AZ number,” certificate of number,” “dealer,” “manufacturer,” and “registration decal.”

R12-4-502(H)(2)(e), revised language to allow Department employee to witness lien holder's signature.

R12-4-506(B)(6), inserted “AZ” in front of “number.”

R12-4-507(C) and (D), corrected statutory citations referencing self-storage facility possessory liens and repair facility liens.

R12-4-509, replaced the term “agent” with “dealer,” where applicable and revised subsection (C) to reference licensing time-frames established under R12-4-106.

R12-4-515, inserted “AZ” in front of “number” and “registration” in front of “decal,” where applicable.

R12-4-517, removed the proposed amendment for Cibola Lake.

R12-4-525, inserted “AZ” in front of “number” and “registration” in front of “decal,” where applicable.

In addition, minor grammatical and style corrections were made at the request of the Governor’s Regulatory Review Council staff.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Written Comment: October 15, 2012. It simply amazes me when AZGFD makes rules, but doesn’t abide by them. Maybe it’s because AZGFD is a government entity instead of a private company. I don’t want to hear that money is tight. Here in Lake Havasu City, no one goes by your rules, boats are abandoned, boats are sinking along the lake and left unattended - check the sinking boats at Site 6, docks are installed on the lake that are not authorized. A makeshift pontoon boat has been left in the reeds for two years south of Mesquite. People fill their jet skis up with gasoline cans on the water and spill gas over the jet ski into the water. I watched one person at Site 6 load 16 people (six were children) on an 18 foot pontoon boat and no one had a life jacket on. AZGFD spent time and money one weekend at Site 6; why not the rest of the weekends? Why not during the week? Check the boats leaving the ramps at Site 6, Windsor north and south for navigation light when leaving at dark. Now that the snowbirds are here, check them for safety equipment on their boats, check them for fishing permits, some don’t buy them. Why, “because no one has checked me for years. So why buy a fishing license?” Check the fish cleaning stations at Site 6, Cat Tail, and Windsor; a man and wife, snowbirds from Oregon, were cleaning 24 stripers; I informed them that the limit was 10 stripers each and was told, “There is no one here to check us, so we’ll do what we want.”

Agency Response: All state and local law enforcement agencies may enforce laws on federal and state navigational waterways; however, law enforcement agencies set their own directives in an effort to better manage their own resources as needed. In addition, your concerns were forwarded to Regional personnel for consideration.

12. All agency’s shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:

The rules do not require a general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal laws, 33 CFR 174.16, 33 CFR 181, and 46 CFR 25.30 are applicable to the subject of the rules. R12-4-512 is more stringent than 46 CFR 25.30, which is permitted under A.R.S. § 5-311(A)(3).

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

The agency has not received an analysis.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

R12-4-516. Watercraft Sound Level Restriction: Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005, revised July 2004; Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005, revised July 2004; and Society of Automotive Engineers Recommended Practice shore-line sound test SAEJ1970, revised September 2003.

R12-4-520. Arizona Uniform State Waterway Marking System, 33 CFR 62, revised July 1, 2004.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published

Notices of Final Rulemaking

in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 5. BOATING AND WATER SPORTS

Section

- R12-4-501. Boating and Water Sports Definitions
- R12-4-502. Application for Watercraft Registration
- R12-4-503. Renewal of Watercraft Registration
- R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration
- R12-4-505. Hull Identification Numbers
- R12-4-506. Invalidation of Watercraft Registration and Decals
- R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft
- R12-4-508. New Watercraft Exchanges
- R12-4-509. Watercraft Agents
- R12-4-510. ~~Refunds for Renewals~~ Refund of Fees Paid in Error
- R12-4-511. Personal Flotation Devices
- R12-4-512. Fire Extinguishers Required for Watercraft
- R12-4-513. Watercraft Accident and Casualty Reports
- R12-4-514. Liveries
- R12-4-515. Display of AZ Numbers and Registration Decals
- R12-4-516. Watercraft Sound Level Restriction
- R12-4-519. Reciprocity
- R12-4-520. Arizona Uniform State Waterway Marking System
- R12-4-521. Placing or Tampering with Regulatory Markers or Aids to Navigation
- R12-4-522. Establishment of Controlled-Use Markers
- R12-4-523. Controlled Operation of Watercraft
- R12-4-525. Revocation of Watercraft Certificate of Number, AZ Numbers, and ~~Decal~~ Decals Revocation
- R12-4-526. Unlawful Mooring
- R12-4-527. Transfer of Ownership of a Towed Watercraft
- R12-4-528. Watercraft Checkpoints
- R12-4-529. ~~Repealed~~ Nonresident Boating Safety Infrastructure Fee; Proof of Payment; Decal

ARTICLE 5. BOATING AND WATER SPORTS

R12-4-501. Boating and Water Sports Definitions

In addition to the definitions provided in under A.R.S. § 5-301, the following definitions apply to this Article unless ~~the context requires~~ otherwise specified:

- “Abandoned watercraft” means any watercraft that has remained:
 - On private property without the consent of the private property owner;
 - Unattended for more than 48 hours on a highway, public street, or other public property;
 - Unattended for more than 72 hours on state or federal lands; or
 - Unattended for more than 14 days on state or federal waterways.
- 1. “Aids to navigation” means buoys, beacons, or other fixed objects placed on, in, or near the water to mark obstructions to navigation or to direct navigation through channels or on a safe course.
- “AZ number” means the Department-assigned identification number with the prefix “AZ”
- 2. “Bill of sale” means a written agreement transferring ownership of a watercraft and listing that includes all of the following information: the name of the buyer and seller; the manufacturer of the watercraft sold, if known; the hull identification number, unless exempted by R12-4-505; the purchase price and sales tax paid, if any; and the signature of the seller
 - Name of buyer;
 - Name of seller;
 - Manufacturer of the watercraft, when known;

Notices of Final Rulemaking

Hull identification number, unless exempt under R12-4-505;

Purchase price and sales tax paid, when applicable; and

Signature of seller.

3. "Boats keep out" in reference to a regulatory marker means that on the operator or user of a watercraft, or a person being towed by a watercraft on waterskis water skis, a surfboard, or similar device or equipment shall not enter.
"Certificate of number" means the Department-issued document that is proof that a motorized watercraft is registered in the name of the owner.
4. "Certificate of origin" means a document provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, or the original purchaser establishing the initial chain of ownership of for a watercraft: a manufacturer's certificate of origin (MCO), a manufacturer's statement of origin (MSO), an importer's certificate of origin (ICO), an importer's statement of origin (ISO), or builder's certification (Form CG-1261), provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, or the original purchaser, such as but not limited to:
Manufacturer's certificate of origin (MCO);
Manufacturer's statement of origin (MSO);
Importer's certificate of origin (ICO);
Importer's statement of origin (ISO); or
Builder's certification (Form CG-1261).
5. "Controlled-use marker" means an anchored or fixed marker on the water, shore, or ~~on~~ a bridge that controls the operation of watercraft, water skis, ~~surfboard~~ surfboards, or similar devices or equipment.
"Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new or used watercraft, or both, either outright or on conditional sale, consignment, or lease.
6. "Homemade watercraft" means a watercraft that is not fabricated or manufactured for resale and to which a manufacturer has not attached a hull identification number. ~~A If a watercraft is assembled from a kit; or constructed from an unfinished manufactured hull; and does not have a manufacturer assigned hull identification number it is a "home-made watercraft" if not already assigned a hull identification number by the manufacturer.~~
7. "Hull identification number" means a number assigned to a specific watercraft by the manufacturer or by a government jurisdiction as prescribed by the U.S. Coast Guard.
"Junk watercraft" means any hulk, derelict, wreck, or parts of any watercraft in an unseaworthy or dilapidated condition that cannot be profitably dismantled or salvaged for parts or profitably restored.
8. "Letter of gift" means a document transferring ownership of a watercraft ~~and listing that includes all of the following information: the name of both the previous owner and the new owner; the name of the manufacturer of the watercraft if known; the hull identification number, unless exempted by R12-4-505; a statement that the watercraft is a gift; and the signature of the previous owner~~
Name of previous owner;
Name of new owner;
Name of manufacturer of the watercraft, when known;
Hull identification number, unless exempt under R12-4-505;
A statement that the watercraft is a gift; and
Signature of previous owner.
9. "Livery" means a business authorized to rent watercraft without an operator as prescribed under A.R.S. § 5-371.
"Manufacturer" means any person engaged in the business of manufacturing or importing new watercraft for the purpose of sale or trade.
"Motorized watercraft" means any watercraft propelled by machinery and powered by electricity, fossil fuel, or steam.
10. "No ski" in reference to a regulatory marker means a person shall not be towed on water skis, an inflatable device, or similar equipment.
"Nonresident Boating Safety Infrastructure Decal" means the Department-issued decal that is proof of payment of the fee required under A.R.S. § 5-327.
11. "No wake" ~~means wakeless speed; in reference to a regulatory marker has the same meaning as "wakeless speed" as defined by under A.R.S. § 5-301; and flat wake as referenced in A.R.S. § 5-350.~~
12. "Operate" in reference to a watercraft means use, navigate, or employ.
13. "Owner" in reference to a watercraft means a person who claims lawful possession of a watercraft by virtue of legal title or equitable interest, ~~which that entitles that the person to possession.~~
13. "Personal flotation device" means a U.S. Coast Guard approved Type I, II, III, or V wearable, or Type IV throwable device for use on any watercraft, as prescribed ~~by under~~ under A.R.S. §§ 5-331(A), (C), and (D); A.R.S. § 5-350(A); and R12-4-511.
14. "Regatta" means an organized water event of limited duration ~~that affects~~ affecting the public use of waterways by the public and is conducted according to a prearranged schedule, for which a lawful jurisdiction has issued a permit;

Notices of Final Rulemaking

- ~~but the term does not include fishing tournaments.~~
15. "Registered owner" means the person or persons to whom a watercraft is currently registered by any jurisdiction.
"Registration decal" means the Department-issued decal that is proof of watercraft registration.
16. "Regulatory marker" means a waterway marker placed on, in, or near the water to indicate the presence of: ~~a~~
A danger, or a
A restricted or controlled-use area, or to
To convey general information and directions.
"Release of interest" means a statement surrendering or abandoning unconditionally any claim or right of ownership or use in a watercraft.
17. "Sound level" means the noise level measured in decibels on the A-weighted scale of a sound level instrument that conforms to recognized industry standards and is maintained according to the manufacturer's instructions.
18. "Staggered registration" means the system of renewing watercraft registrations ~~that expire~~ in accordance with the schedule ~~contained in~~ provided under R12-4-504.
19. "State of principal ~~use~~ operation" means the state ~~on~~ in whose waters the watercraft is used or ~~to~~ will be ~~used~~ oper-
ated most during the calendar year.
"Unreleased watercraft" means a watercraft for which there is no written release of interest from the registered owner.
20. ~~"Use" in reference to a watercraft means any watercraft underway, moored, anchored, or beached on the waterways of the state.~~
21. "Watercraft" means a boat or other floating device of rigid or inflatable construction designed to carry people or cargo on the water ~~that is~~ and propelled by machinery, oars, paddles, or wind action on a sail. Exceptions are sea-planes, makeshift contrivances constructed of ~~innertubes~~ inner tubes or other floatable materials that are not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids.
~~Only motorized watercraft are subject to registration.~~
22. "Watercraft agent" means a person authorized by the Department to collect applicable fees for the registration and numbering of watercraft.
23. ~~"Watercraft number" means the registration number issued by the Department under A.R.S. § 5-321.~~
24. "Watercraft registration" means the validated certificate of number and validating decals issued by the Department.

R12-4-502. Application for Watercraft Registration

A. Only motorized watercraft as defined under R12-4-501 are subject to watercraft registration.

~~A.B.~~ A person shall apply for watercraft registration under A.R.S. § 5-321 using a form ~~provided~~ furnished by the Department and available at any Department office or online at www.azgfd.gov. The applicant shall provide the following information for registration of all motorized watercraft except homemade watercraft, which are addressed ~~in~~ under subsection ~~(B)~~ (C):

1. Type of watercraft; ~~and propulsion~~
2. Propulsion type;
3. Engine drive type;
- ~~2-4.~~ Overall length of watercraft;
- ~~3-5.~~ Manufacturer's name Make and model of watercraft, if known;
- ~~4-6.~~ Year built or model year, if known;
- ~~5-7.~~ Hull identification number;
- ~~6-8.~~ Hull material;
- ~~7-9.~~ Fuel type;
- ~~8-10.~~ Category of use;
- ~~9-11.~~ Watercraft or AZ number previously issued for the watercraft, if any;
- ~~10-12.~~ State of principal ~~use~~ operation; and
- ~~11-13.~~ Name, mailing address, and date of birth of each owner For watercraft:
 - a. Owned by an individual:
 - i. Name.
 - ii. Mailing address, and
 - ii. Date of birth.
 - b. Owned by a business:
 - i. Name of business
 - ii. Business address, and
 - iii. Tax Identification Number
 - c. Held in a trust:
 - i. Name of trust.
 - ii. Primary trustee's address, and
 - iii. Date of trust.
14. ~~To simplify the description of joint ownership when a~~ When ownership of the watercraft is owned by in more than one ~~person~~ name, the applicant shall indicate ownership designation by use of one of the following methods:

Notices of Final Rulemaking

- a. Where ownership is joint tenancy with right of survivorship ~~or community property with right of survivorship~~, the applicant shall use "and/or" between the names of the owners. To transfer registration of the watercraft, each ~~party owner~~ shall provide a signature ~~if both are living~~. Upon legal proof of the death ~~or incompetency~~ of either ~~party owner~~, the ~~living party remaining owner~~ may transfer registration of the watercraft ~~upon the signature of the living party~~.
- b. Where ownership is a tenancy in common the applicant shall use "and" between the names of the owners. To transfer registration of the watercraft, each ~~party owner~~ shall provide a signature. In the event of the death ~~or incompetency~~ of any ~~party owner~~, the ~~interest of the deceased party~~ disposition of the watercraft shall be handled through appropriate legal proceedings.
- c. Where the ownership is joint tenancy or is community property with an express intent that either of the owners has full authority to transfer registration, the applicant shall use "or" between the names of the owners. Each owner shall sign the application for registration. To transfer registration, either ~~party's owner's~~ signature is sufficient for transfer.

~~B-C.~~ The builder, owner, or owners of a homemade watercraft shall present the watercraft for inspection at a Department office, ~~and shall sign the application and have it notarized unless it is signed in the presence of a Department employee.~~ The applicant shall provide the following information for registration of homemade watercraft, using the same ownership designations specified in subsection (A)(14):

1. Type of watercraft; ~~and propulsion~~
2. Propulsion type;
3. Engine drive type;
- ~~2-4.~~ Overall length of watercraft;
- ~~3-5.~~ Year built;
- ~~4-6.~~ Hull material;
- ~~5-7.~~ Fuel type;
- ~~6-8.~~ Category of use;
- ~~7-9.~~ Name, mailing address, and date of birth of each owner Each owner's:
 - a. Name;
 - b. Mailing address, and
 - c. Date of birth;
- ~~8-10.~~ State of principal ~~use~~ operation;
- ~~9-11.~~ Whether the watercraft was assembled from a kit or rebuilt from a factory or manufacturer's hull; ~~and~~
- ~~10-12.~~ Hull identification number, if assigned; ~~and~~
13. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.

~~C-D.~~ ~~In accordance with~~ As prescribed under A.R.S. § 5-321, the applicant shall submit a use tax receipt issued by the Arizona Department of Revenue with the application for registration ~~a receipt for use tax paid from the Arizona Department of Revenue unless at least any one of the following applies~~ conditions apply:

1. The applicant is exempt from use tax as provided ~~in under~~ A.A.C. Title 15, Chapter 5,
2. The applicant is transferring the watercraft from another jurisdiction to Arizona without changing ownership,
3. ~~Sales or use tax paid is shown on the bill of sale or receipt submitted by the applicant~~ The applicant submits a bill of sale or receipt showing the sales or use tax was paid at the time of purchase, or
4. The applicant submits a notarized affidavit of exemption stating that the acquisition of the watercraft was for rental or resale purposes.

~~D.~~ ~~To obtain registration as a commercial watercraft under A.R.S. § 5-322(H), the owner shall provide evidence of payment of the ad valorem property tax under the provisions of Article 9, Section 16 of the Arizona Constitution; the tax privilege license number; and the business name, address, and telephone number.~~

E. ~~To obtain~~ An applicant for a watercraft dealer registration ~~authorized~~ under A.R.S. § 5-322(G) ~~5-322(F), the applicant shall be a business offering watercraft for sale; or a watercraft manufacturer registered by the U.S. Coast Guard. A person shall display dealer numbers registration for demonstration purposes only. "Demonstration" For the purposes of this Section, "demonstration" means to operate a watercraft on the water for the purpose of selling, trading, negotiating, or attempting to negotiate the sale or exchange of interest in new watercraft. Demonstration also, which includes operation by a manufacturer for purposes of testing a watercraft. Demonstration does not include operation of a watercraft for personal purposes by a dealer or manufacturer; or an employee of a dealer or manufacturer, family member of a dealer or manufacturer, or an associate of a dealer or manufacturer. The Department shall issue the number of certificates and decals specified on the application, or deny issuance within 30 calendar days of receiving the application. A watercraft dealer registration applicant shall submit an application to the Department. The application is furnished by the Department and is available at any Department office. The applicant shall provide the following information on a form available from the Department the application:~~

1. All business names used for the sale or manufacture of watercraft in Arizona, ~~and the mailing;~~
2. Mailing address and telephone number for each business ~~to be issued for which a watercraft dealer registrations reg-~~

Notices of Final Rulemaking

istration is requested;

~~2-3.~~ Tax privilege license number;

~~3-4.~~ U.S. Coast Guard manufacturer identification code, if when applicable;

~~4-5.~~ Total number of certificates of number and decals ~~to be issued~~ requested; and

~~5-6.~~ Name, address, signature, and phone number of the owner or manager of the principal ~~The business owner's or manager's:~~

a. Name.

b. Business address.

c. Telephone number, and

d. Signature.

F. In addition to submitting the application form and any other information required ~~by~~ under this Section, the applicant for watercraft registration shall submit one of the following additional forms of documentation:

1. ~~An original~~ Original title if the watercraft is titled in another state ~~and a release of interest if the watercraft is being transferred to an individual other than the original listed owner,~~

2. ~~An original~~ Original registration if the watercraft is from a registration non-titling state, ~~and a release of interest if the watercraft is being transferred to an individual other than the original listed owner;~~

3. ~~A bill~~ Bill of sale as defined ~~in~~ under R12-4-501 if the watercraft has never been registered or titled in any state;

4. ~~A letter~~ Letter of gift as defined ~~in~~ under R12-4-501 if the watercraft was received as a gift and was never registered or titled in another state;

5. ~~A court~~ Court order or other legal documentation establishing lawful transfer of ownership; or

6. ~~A statement~~ Statement of ~~fact~~ facts form furnished by the Department and available from any Department office if when none of the documentation identified ~~in~~ under subsections (F)(1) through (F)(5) exists; either in the possession of the watercraft owner or in the records of any jurisdiction responsible for registering or titling watercraft. An applicant ~~that applies~~ for watercraft registration under a statement of ~~fact~~ facts shall present the watercraft for inspection at a Department office. ~~The owner or owners of the watercraft shall sign the statement of fact form and shall have it notarized unless the form is signed in the presence of an authorized Department employee. The owner or owners of the watercraft shall provide the hull identification number of the watercraft on the statement of fact~~ facts form and shall ~~certify one of~~ include the following information:

a. ~~The watercraft was manufactured prior to 1972, is 12 feet in length or less, and is not propelled by an inboard engine;~~

b. ~~The watercraft is owned by the applicant, and it has never been registered or titled;~~

e. ~~The watercraft was owned in a state that required registration, but the watercraft was never registered or titled; or~~

d. ~~The watercraft was purchased, received as a gift, or received as a trade, and that the watercraft has not been registered, titled, or otherwise documented in the past five years; or~~

a. Hull identification number.

b. Certification that the watercraft meets one of the following conditions:

i. The watercraft was manufactured prior to 1972, is 12 feet in length or less, and is not propelled by an inboard engine;

ii. The watercraft is owned by the applicant and has never been registered or titled;

iii. The watercraft was owned in a state that required registration, but was never registered or titled; or

iv. The watercraft was purchased, received as a gift, or received as a trade and has not been registered, titled, or otherwise documented in the past five years.

c. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.

7. An original certificate of origin ~~if when~~ all of the following conditions apply: ~~the~~

a. The watercraft was purchased as new, the

b. The applicant is applying for watercraft registration within a year of purchasing the watercraft, and the

c. The certificate of origin is not held by a lien holder.

G. ~~The Department shall register a watercraft, if the watercraft's original title or registration is lost, upon receipt of one of the following:~~

1. ~~A letter or printout from any jurisdiction responsible for registering or titling watercraft that verifies the owner of record for that specific watercraft;~~

2. ~~A statement of fact by the applicant as prescribed in subsection (F)(6) if the watercraft has not been registered, titled, or otherwise documented in the past five years; or~~

3. ~~An affidavit of publication demonstrating the applicant's compliance with R12-4-507.~~

G. If the watercraft is being transferred to a person other than the original listed owner, the applicant for a watercraft registration shall submit a release of interest.

H. If the original title is held by a lien holder, the applicant for a watercraft registration shall submit a form furnished by the Department and available from any Department office along with a copy of the title. The applicant shall comply with the following requirements when submitting the form:

Notices of Final Rulemaking

1. The applicant shall provide the following information on the form:
 - a. ~~The applicant's~~ Applicant's name,
 - b. ~~The applicant's~~ Applicant's mailing address,
 - c. ~~The watercraft~~ Watercraft make, and
 - d. ~~The watercraft~~ Watercraft hull identification number (~~HIN~~).
2. The applicant shall ensure ~~that~~ the lien holder provides the following information on the form:
 - a. ~~The lien~~ Lien holder's name,
 - b. ~~The lien~~ Lien holder's mailing address,
 - c. ~~The name~~ Name of the person completing the form for the lien holder,
 - d. ~~The title~~ Title of the person completing the form for the lien holder, and
 - e. ~~The notarized signature~~ Signature of the person completing the form for the lien holder, acknowledged before a Notary Public or witnessed by a Department employee.
- ~~I.~~ A person shall not apply for or obtain a watercraft registration by making a false statement or providing false information on any application, statement of fact, or written instrument submitted to the Department. The Department shall provide notice that a watercraft registration is invalid if the registration is obtained by an applicant who makes a false statement or provides false information on any application, statement of fact, or written instrument submitted to the Department, and as prescribed in R12-4-506.
- ~~J.I.~~ The Department shall issue a watercraft registration within 30 calendar days of receiving a valid application and documentation required by this Section, whether from the applicant or from a watercraft agent authorized under R12-4-509. An application is not considered valid if the Department receives legal documentation that legal action may affect ownership of the watercraft.
- J. The Department shall register a watercraft, if the watercraft's original title or registration is lost, upon receipt of one of the following:
 1. A letter or printout from any jurisdiction responsible for registering or titling watercraft that verifies the owner of record for that specific watercraft;
 2. A printout of the Vessel Identification System from the U.S. Coast Guard and verification from the appropriate state agency that the information regarding the owner of record for that specific watercraft is correct and current;
 3. A statement of facts by the applicant as described under subsection (F)(6) if the watercraft has not been registered, titled, or otherwise documented in the past five years; or
 4. The abandoned or unreleased watercraft approval letter issued by the Department, as established under R12-4-507(I).
- ~~K.~~ All watercraft registrations and supporting documentation are subject to verification by the Department and to the requirements ~~of~~ established under R12-4-505. The Department shall require a watercraft to be presented for inspection to verify the information provided by an applicant if the Department has reason to believe ~~that~~ the information provided by the applicant is inaccurate ~~or false~~.
- L. The Department shall deem an application invalid if the Department receives legal documentation of any legal action that may affect ownership of the watercraft.
- M. The Department shall invalidate a watercraft registration if the registration is obtained by an applicant who makes a false statement or provides false information on any application, statement of facts, or written instrument submitted to the Department.

R12-4-503. Renewal of Watercraft Registration

- ~~A.~~ The Department shall mail renewal notices to the address of the watercraft owner, as shown on the certificate of number, six weeks before the last day of the month of expiration established under R12-4-504. The owner of a registered watercraft shall ensure that the watercraft's registration is renewed regardless of whether the renewal notice is received no later than the day before the prior registration period expires.
- ~~B.~~ To renew a watercraft's registration in person or by mail, an applicant shall submit the registration fee required ~~by~~ under A.R.S. § 5-321 and the ~~renewal notice provided by the Department. In the absence of the renewal notice, the registered owner shall~~ present one of the following:
 1. ~~A current~~ Current or prior certificate of number;
 2. ~~A valid~~ Valid driver's license;
 3. ~~A valid~~ Valid Arizona Motor Vehicle Division identification card; ~~or,~~
 4. ~~A valid~~ Valid passport, or
 5. Department-issued renewal notice.
- ~~C.~~ To renew a watercraft's registration by telephone, an applicant shall pay the registration fee required by A.R.S. § 5-321 and shall provide the following to the Department or its agent:
 1. The name of the watercraft's registered owner as it appears on the renewal notice;
 2. The assigned Arizona watercraft number (AZ number) of the watercraft being renewed, and
 3. The Department-assigned authorization number or the applicant's date of birth.
- ~~D.C.~~ To renew a watercraft's registration ~~via the Internet online~~, an applicant shall pay electronically submit the registration fee required ~~by~~ under A.R.S. § 5-321 and ~~shall~~ provide the assigned Arizona watercraft AZ number (~~AZ number~~) of the

Notices of Final Rulemaking

watercraft being renewed, and one of the following to the Department or its agent:

1. ~~The~~ Department-assigned authorization number,
2. ~~The applicant's~~ Applicant's date of birth, or
3. ~~The applicant's~~ Applicant's password.

E.D. ~~The Department or its agent shall renew a watercraft's registration within 30 calendar days of receiving a valid application for renewal. The~~ When a watercraft registration is renewed by mail or online, the Department shall mail the renewal to the address of record ~~unless the applicant renews the watercraft's registration in person, or, unless there is~~ the Department receives a notarized request from the registered owner instructing the Department to mail ~~it~~ the renewal to another address.

R12-4-504. Staggered Watercraft Registration Schedule; Penalty for Late Registration

- A. All new watercraft registrations expire 12 months after they are issued.
- B. ~~Upon renewal of resident or non-resident pleasure use, or an Indian or soldier's tax-exempt use, the registration expires~~ Resident and nonresident watercraft registration renewals expire on the last day of the month indicated by the last two numeric digits of the ~~watercraft~~ AZ number, as shown in the following table:

Last two numeric digits of watercraft <u>AZ</u> number									Expiration month
00	12	24	36	48	60	72	84	96	December
01	13	25	37	49	61	73	85	97	January
02	14	26	38	50	62	74	86	98	February
03	15	27	39	51	63	75	87	99	March
04	16	28	40	52	64	76	88		April
05	17	29	41	53	65	77	89		May
06	18	30	42	54	66	78	90		June
07	19	31	43	55	67	79	91		July
08	20	32	44	56	68	80	92		August
09	21	33	45	57	69	81	93		September
10	22	34	46	58	70	82	94		October
11	23	35	47	59	71	83	95		November

- C. ~~Upon renewal of registrations issued to dealers or manufacturers under A.R.S. § 5-322(G), or for~~ Watercraft dealer, manufacturer, and governmental use, ~~the registration renewals expires~~ expire on October 31 of each year.
- D. ~~Upon renewal of registrations issued to liveries or for~~ Livery and all other commercial use, ~~the registration renewals expires~~ expire on November 30 of each year.
- E. The Department or its agent shall collect the entire registration fee ~~and license tax~~ for a late registration renewal; and a penalty fee of \$5, ~~except as exempted by~~ unless exempt under A.R.S. § ~~5-321(H)~~ 5-321(L), or unless the expiration date falls on a Saturday, Sunday, or state holiday, and the registration is renewed before the close of business on the next working day. The Department or its agent shall not ~~collect the~~ assess a penalty fee ~~for when~~ when a renewal is mailed before the expiration date, as evidenced by the postmark.

R12-4-505. Hull Identification Numbers

- A. The Department shall not register a watercraft without a hull identification number.
- B. The Department shall verify watercraft manufactured after November 1, 1972, have a primary hull identification number that complies with the requirements established under 33 CFR 181, subpart C. The Department shall assign a hull identification number when the watercraft hull identification number does not meet the requirements established under 33 CFR 181, subpart C.
- C. The hull identification number shall be fully visible and unobstructed at all times. Watercraft manufactured prior to August 1, 1984, are exempt from this requirement provided the obstruction is original equipment and was attached by the manufacturer.
- B.D.** ~~The Department shall assign a hull identification number to a watercraft with a missing hull identification number only if the Department determines that:~~
 1. ~~A~~ The hull identification number ~~has~~ was not ~~been~~ been illegally removed or altered, unless the application is ~~made by a governmental agency and is~~ accompanied by an order of forfeiture, or order of seizure, or other civil process; or
 2. The missing hull identification number was caused by error of the manufacturer or a government jurisdiction or failure of a previous owner of a watercraft to comply with this rule, or because the watercraft is a ~~"homemade watercraft"~~ homemade watercraft as defined ~~in~~ under R12-4-501.

Notices of Final Rulemaking

~~E.E.~~ The Department ~~shall~~ may assign or ~~deny assignment of~~ a hull identification number within 30 days of receipt of a valid application, as described ~~in~~ under R12-4-502.

~~D.F.~~ The Department ~~shall~~ may accept a bill of sale presented with a missing or improper hull identification number for registration purposes only if:

1. It matches the improper hull identification number or there is no hull identification number on the watercraft; or
2. A hull identification number is issued by the Department under subsection ~~(B)~~ (D).

~~E.G.~~ Within 30 days of issuance, the applicant, ~~the or~~ registered owner, ~~or the Department~~ shall permanently:

1. Burn, carve, stamp, emboss, mold, bond, or otherwise permanently affix each hull identification number to a non-removable part of the watercraft in a manner that ensures any alteration, removal, or replacement will be obvious.
2. Ensure the characters of each hull identification number affixed to the watercraft are no less than 1/4 inch in height.
3. Permanently affix the hull identification number as follows:
 - ~~1-a.~~ On watercraft with transoms, affix the hull identification number to the right or starboard side of the transom within two inches of the top of the transom or hull/deck joint, whichever is lower.
 - ~~2-b.~~ On watercraft without a transom, affix the hull identification number to the starboard outboard side of the hull, back or aft within one foot of the stern and within two inches of the top of the hull, gunwale, or hull/deck joint, whichever is lowest.
 - ~~3-c.~~ On a catamaran or pontoon boat, affix the hull identification number on the aft crossbeam within one foot of the starboard hull attachment.
 - ~~4-d.~~ If the hull identification number would not be visible because of rails, fittings, or other accessories, affix it as close as possible to the applicable location prescribed in subsection (E)(1) As close as possible to the applicable location established under subsections (a), (b), or (c) when rails, fittings, or other accessories obscure the visibility of the hull identification number.
 - ~~5-e.~~ Affix a duplicate of the visibly affixed hull identification number in an unexposed location on a permanent part of the hull.
- ~~6. Burn, carve, stamp, emboss, mold, bond, or otherwise permanently affix each hull identification number to a non-removable part of the watercraft so that alteration, removal, or replacement will be obvious.~~
- ~~7. Ensure that the characters of each hull identification number affixed to the watercraft are no less than 1/4 inch in height.~~
4. Certify to the Department that the hull identification number was permanently affixed to the watercraft as required under subsection (G). The certification statement is furnished by the Department when the hull identification number is issued. The certification statement shall include the location of the permanently affixed hull identification number.

R12-4-506. Invalidation of Watercraft Registration and Decals

- A. Any watercraft registration obtained by fraud or misrepresentation is invalid from the date of issuance.
- B. A certificate of number and any decals issued by the Department under R12-4-502 and R12-4-529 are invalid if any of the following occurs:
 1. Any check, money order, or other currency certificate presented to the Department for payment of watercraft registration or renewal is found to be non-negotiable;
 2. Any person whose name appears on the certificate of number loses ownership of the watercraft by legal process;
 3. Arizona is no longer the state of principal ~~use~~ operation;
 4. The watercraft is documented by the U.S. Coast Guard;
 5. An applicant provides incomplete or incorrect information to the Department and fails to provide the correct information within 30 days after a request by the Department;
 6. The Department revokes the certificate of number, AZ numbers, and decals as provided ~~in under~~ A.R.S. § 5-391(I); or
 7. The Department erroneously ~~issues~~ issued a certificate of number or any decals.
- C. A person shall ~~return~~ surrender the invalid certificate of number and decals ~~that are invalid under subsections (A) or (B) to the Department within 15 calendar days of receiving written notification from the Department that the certificate of number and decals are invalid.~~
- D. The Department shall not validate or renew an invalid watercraft registration or decals until the reason for invalidity ~~has been~~ is corrected or no longer exists.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

~~A.~~ For the purpose of this Section the following definitions apply:

- ~~1. "Abandoned watercraft" means a watercraft that has remained on private property without the consent of the private property owner or has remained unattended on a highway, public street, or other public property, or waterway for more than seven days. A watercraft left under a written repair or storage order is not an abandoned watercraft.~~
- ~~2. "Release of interest" means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.~~
- ~~3. "Unreleased watercraft" means a watercraft for which there is no release of interest from the registered owner.~~

Notices of Final Rulemaking

- A.** A person who has knowledge and custody of a watercraft abandoned on private property owned by that person may attempt to obtain ownership of the watercraft by way of the abandoned watercraft transfer process.
- B.** Unless an abandoned or unreleased watercraft is reported stolen the The last registered owner of an abandoned or unreleased watercraft is presumed to be responsible for the watercraft, unless the watercraft is reported stolen.
- C.** The operator of a self-storage facility located in this state and having a possessory lien shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 15, Article 1 when attempting to obtain ownership of a watercraft abandoned while in storage.
- D.** A person having a possessory lien under a written rental agreement shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 7, Article 6 when attempting to obtain ownership of a watercraft for which repairs or service fees remain unpaid.
- E.** Only a person acting within the scope of official duties as an employee or authorized agent of a government agency may order the removal of a watercraft abandoned on public property or a public waterway.
- ~~E.~~F.** A person seeking transfer of ownership of an abandoned or unreleased watercraft shall submit an application to the Department. The application is furnished by the Department and available at any Department office. The application shall include the following information, if available, on a form obtained from the Department:
1. Hull identification number, unless ~~exempted by~~ exempt under R12-4-505;
 2. Registration number;
 3. Decal number;
 4. State of registration;
 5. Year of registration;
 6. Name, address, and daytime telephone number of the person who found the watercraft;
 7. If the watercraft is abandoned, the description or address of the location where the watercraft was found, whether the watercraft was abandoned on private or public property, and if private, whether or not the applicant is the legal owner of the property. For abandoned watercraft:
 - a. Address or description of the location where the watercraft was found.
 - b. Whether the watercraft was abandoned on private or public property, and
 - c. When applicable, for watercraft abandoned on private property, whether the applicant is the legal owner of the property;
 8. Condition of the watercraft: ~~whether~~ wrecked, stripped, or intact;
 9. State in which the watercraft will be ~~used~~ operated;
 10. Length of time the watercraft was abandoned; ~~and~~
 11. Reason why the applicant believes the watercraft is abandoned; ~~and~~
 12. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
- G.** This state and its agencies, employees, and agents are not liable for relying in good faith on the contents of the application.
- ~~D.H.~~** The Department shall attempt to determine the name and address of the registered owner and, if successful, shall send written notice of the attempt to register the watercraft by the applicant to the registered owner by certified mail, return receipt requested by:
1. Conducting a search of its watercraft database when documentation indicates the watercraft was previously registered in this state, or
 2. Requesting the watercraft record from the other state when documentation indicates the watercraft was previously registered in another state.
- I.** If the Department is able to determine the name and address of the registered owner, the Department shall send written notice of the applicant's attempt to register the watercraft to the owner by certified mail, return receipt requested.
1. After 30 calendar days from the date the Department mails the notice, if service is successful, or upon receipt of a response from the registered owner, the Department shall advise the applicant in writing according to the following. If service is successful or upon receipt of a response from the registered owner, the Department shall send the following written notification to the applicant, as appropriate:
 - a. If the registered owner provides a written release of interest in the watercraft, the Department shall ~~provide the applicant with mail~~ the release of interest and an abandoned or unreleased watercraft approval letter to and the applicant may then register the. The applicant shall apply for watercraft under registration in compliance with the requirements established under R12-4-502.
 - b. If the registered owner provides written notice to the Department refusing to release an interest in the watercraft, the Department shall ~~advise~~ notify the applicant of the owner's refusal, and the. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
 - c. If ~~service is successful and~~ the registered owner does not respond to the notice in writing within 30 days from the date of mailing, when service was successful receipt, the Department shall ~~advise~~ notify the applicant of the owner's failure to respond, and the. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502;

Notices of Final Rulemaking

- d. ~~If service is successful and the registered owner does not provide written respond to the notice to claim or release interest in the watercraft within 180 days after from the date the Department receives the notice of receipt of the notice, this failure to act shall constitute a waiver of interest in the watercraft by any individual person having an interest in the watercraft, and the watercraft shall be deemed abandoned for all purposes. The Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.~~
 2. ~~If the Department cannot determine who the registered owner of the watercraft is, or if the written notice is returned unclaimed or refused, the Department shall advise notify the applicant in writing within 15 days of the notice being returned that the attempt to identify or contact the registered owner was unsuccessful.~~
- E.I.** ~~If the Department is unsuccessful in its attempt unable to identify or serve the registered owner under subsection (D)(2), the Department shall publish a notice of intent of the Director of the Department to transfer ownership of the abandoned or unreleased watercraft once in a newspaper or other publication of general circulation in this state within 45 days of the Department's notification to the applicant as provided in subsection (D)(2) (I)(2).~~
1. ~~The published notice shall include a statement of the Department's intent of the Director to transfer ownership of the watercraft as provided by R12-4-502-10 ten days after the notice is published date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten day period following publication.~~
 2. ~~The Upon request, the Department shall make available to the public upon request a description of the abandoned or unreleased watercraft subject to transfer of ownership.~~
 3. ~~If the watercraft remains unclaimed after the ten day period, the Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.~~
- K.** A government agency may submit an application for authorization to dispose of a junk watercraft abandoned on state or federal lands or waterways. The application is furnished by the Department and is available at any Department Office. Upon receipt of the application, the Department shall attempt to determine the name and address of the registered owner. If the Department is unable to identify and serve the registered owner, the Department shall publish a notice of intent to authorize the disposal of the junk watercraft as described in subsection (J).
1. The published notice shall include a statement of the Department's intent to authorize the disposal of the watercraft ten days after the date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten day period following publication.
 2. If the watercraft remains unclaimed after the ten day period, the Department shall mail an authorization to dispose of the junk watercraft to the government agency. The government agency may dispose of the abandoned watercraft and all indicia for that watercraft in any manner the agency determines expedient or convenient.

R12-4-508. New Watercraft Exchanges

- A.** ~~The Department may replace registration for new watercraft never previously registered which is returned to the seller within 30 calendar days of registration, provided that the seller replaces the watercraft with a duplicate watercraft, and application for replacement registration is made to the Department within the same 30 calendar days.~~
- B.** ~~In order to obtain replacement registration, the registered owner shall provide the Department with the registration for the original watercraft and with a letter signed by the seller stating that the watercraft has been replaced, and providing the hull identification numbers for both the original and the replacement watercraft and the name of both the buyer and the seller.~~
- C.** ~~The Department shall issue replacement registration for the replacement watercraft with no charge in addition to the fee and license tax already paid.~~
- A.** A person may request a no-fee replacement registration for a new watercraft, provided all of the following conditions apply:
1. The person purchased the newly registered watercraft from a new watercraft dealer.
 2. The person returned the watercraft to the new watercraft dealer within 30 days of purchase, and
 3. The new watercraft dealer exchanged the returned watercraft for a watercraft of the same year, make, and model within the same 30 day period.
- B.** To obtain a no-fee replacement registration, the person shall submit the original watercraft registration and a letter from the new watercraft dealer to the Department. The letter shall include all of the following information:
1. A statement that the original watercraft was replaced.
 2. The hull identification number for the original watercraft.
 3. The hull identification number for the replacement watercraft.
 4. The buyer's name, and
 5. The new watercraft dealer's name.

R12-4-509. Watercraft Agents

- A.** The Department has the authority to authorize a watercraft dealer to act as an agent to act for on behalf of the Department

Notices of Final Rulemaking

for the purpose of issuing temporary certificates of number valid for 30 days for new watercraft ~~only if, provided:~~

1. The applicant's previous authority to act as a watercraft agent under A.R.S. § ~~5-321(H)~~ 5-321(I) has not been cancelled by the Department within the preceding 24 months, and
2. The applicant is a business located and operating within this state ~~that~~ and sells watercraft for an identified manufacturer.

B. An applicant ~~for seeking~~ watercraft ~~agent dealer~~ authorization shall ~~apply on forms provided~~ submit an application to the Department. The application is furnished by the Department and available at the Arizona Game and Fish Department, 5000 W. Carefree Highway, Phoenix, AZ 85086. The Department shall issue authorization or deny the application within 30 calendar days of receiving the application. The applicant shall provide the following information on the application:

1. ~~The principal~~ Principal business or corporation name, address, and telephone number or if not a corporation, the full name, address, and telephone number of all owners or partners;
2. ~~If not a corporation, the full name, address, and telephone number of all owners or partners;~~
- 3-2. ~~The name~~ Name, address, and telephone number of the owner or manager ~~that is~~ responsible for compliance with this Section;
- 4-3. ~~Whether or not~~ the applicant has previously issued temporary certificates of number under A.R.S. § ~~5-321(H)~~ 5-321(I);
- 5-4. ~~The storefront name, street address, type of business, name of the manager, telephone number, and business hours of the~~ All of the following information specific to the location from which new watercraft are to be sold and temporary certificates of number issued:
 - a. Name of owner or manager;
 - b. Business hours;
 - c. Business telephone number;
 - d. Business type;
 - e. Storefront name; and
 - f. Street address;
- 6-5. ~~The manufacturers~~ Manufacturers of the watercraft to be distributed; and
- 7-6. ~~The signature~~ Signature of the person named under subsection ~~(B)(3)~~ (B)(2).

C. The Department shall either approve or deny the application within the licensing time-frame established under R12-4-106.

D. The watercraft dealer shall:

1. Use the assigned watercraft dealer number when issuing a temporary certificate of number.
2. Use the online application system or forms supplied by the Department; and
3. Collect the appropriate fee as prescribed under A.R.S. §§ 5-321 and 5-327.

~~E.~~ Authorization to act as a watercraft agent is specific to the dealer's business location designated on the application and approved by the Department. ~~The only exception is if, unless~~ the agent dealer is participating in a scheduled, advertised boat show for the purpose of selling watercraft.

~~D.~~ The Department shall assign an agent number to a watercraft agent upon approval of the application, and shall supply the agent with forms and a schedule of fees to be collected for compliance with A.R.S. § 5-321.

~~E.F.~~ A watercraft ~~agent dealer~~ shall not destroy prenumbered temporary certificate of number applications provided by the Department, ~~but~~ The watercraft dealer shall mark as the unused prenumbered application "void" if necessary and return the application to the Department with the monthly report required in under subsection (H) (J).

~~F.G.~~ A watercraft agent shall verify that watercraft agent supplies were received within seven days of receipt. The Department shall provide new supplies within 30 calendar days after receipt of ~~an agent's~~ the watercraft dealer's request form. The watercraft dealer shall verify supplies were received within seven days of receipt.

G.H. A watercraft ~~agent dealer~~ issuing a temporary certificate of number to the purchaser of a new watercraft shall comply with all the following if the agent is issuing a temporary certificate of number to the purchaser of a new watercraft:

1. The watercraft ~~agent dealer~~ shall obtain an application if the watercraft is purchased from the ~~agent, dealer~~ or the applicant's bill of sale ~~that shows~~ containing the following information:
 - a. ~~The Statement that the watercraft is new as distinguished from used;~~
 - b. ~~The names~~ Names and addresses of the buyer and seller;
 - c. ~~The date~~ Date of purchase;
 - d. ~~The amount~~ Amount of sales tax paid;
 - e. ~~The purchase~~ Purchase price;
 - f. ~~The manufacturer's name;~~ Make and model of watercraft, if known;
 - g. Engine drive type;
 - ~~g-h.~~ The length Length of the watercraft;
 - ~~h-i.~~ The year Year of manufacture; and
 - ~~i-j.~~ The hull Hull identification number.
2. The agent shall obtain a certificate of origin from the manufacturer and provide it to the purchaser of the new watercraft.

Notices of Final Rulemaking

- 3-2. The ~~agent~~ watercraft dealer shall identify to the applicant the state registration fee and the ~~applicable watercraft license tax~~ nonresident boating safety infrastructure fee, when applicable, separately from any other costs; ~~and,~~
- 4-3. ~~The agent shall, within~~ Within 72 hours after issuing a temporary certificate of number, a watercraft dealer shall deliver to the Department's Phoenix office or deposit in the U.S. mail the legible original application, a legible original or copy of the bill of sale, the original certificate of origin, and a check or money order for the state's fees to the Arizona Game and Fish Department, Watercraft Agent Representative, 5000 W. Carefree Highway, Phoenix, AZ 85086.
4. The state's fees shall be submitted by check or money order with the required documentation or electronically prior to the submission of the required documentation.
- ~~H-I.~~ The Department shall accept online applications ~~only on or~~ prenumbered temporary certificate of number application forms provided to the ~~agent~~ watercraft dealer by the Department, as ~~prescribed in~~ established under R12-4-502.
- ~~I-J.~~ By the 10th day of each month, a watercraft ~~agent~~ dealer shall submit a report of activity for the previous month to the Department on a form ~~provided~~ furnished by the Department and available at the Department office listed under subsection (H)(3). The watercraft ~~agent~~ dealer shall submit the report whether or not any ~~temporary certificates of number are issued~~ activity occurred during the reporting period. The report shall include all of the following:
1. The name Name and address of the watercraft ~~agent,~~ agent, and the agent number assigned by the Department dealer;
 2. Department assigned watercraft agent number;
 - 2-3. ~~For each temporary certificate of number issued, the application number, the name of the purchaser, the hull identification number, and the date of issuance; and:~~
 - a. Application number;
 - b. Name of the purchaser;
 - c. Hull identification number; and
 - d. Date of issuance; and
 - 3-4. A list of any voided or missing application numbers, with explanation.
 5. A watercraft dealer who processes all transactions using the Department's online application system is exempt from subsection (J).
- ~~J-K.~~ The Department may cancel the watercraft dealer's authorization ~~to be a watercraft agent~~ and demand the return of or collect all supplies issued to the agent ~~based on consideration if the dealer does any one~~ of the following:
1. ~~Failure~~ Fails to comply with the requirements established under this Section;
 2. ~~Issuing~~ Submits more than one check ~~with,~~ draft, order, or electronic payment dishonored because of insufficient funds, payments stopped, or closed accounts to the Department within a calendar year;
 3. ~~Predating, postdating, altering, or providing~~ Predates, postdates, alters, or provides or knowingly ~~allowing~~ allows false information to be provided on or with an application for a temporary certificate of number;
 4. ~~Knowingly issuing~~ Issues a temporary certificate of number for a used watercraft; ~~or~~
 5. ~~Falsifying~~ Falsifies the application for authorization as a watercraft agent; ~~or falsifying~~
 6. Falsifies the monthly report required by subsection ~~(H)~~ (J).
- ~~K-L.~~ Denial of ~~an~~ a dealer's application to become a watercraft agent, or cancellation of watercraft agent status by the Department; may be appealed to the Commission as prescribed ~~in~~ under A.R.S. Title 41, Chapter 6, Article 10, ~~Uniform Administrative Appeals Procedures.~~
- R12-4-510. Refunds for Renewals Refund of Fees Paid in Error**
- A. The Department shall issue ~~refunds~~ a refund for watercraft fees paid in error ~~for renewal of watercraft registration~~ under the following circumstances:
1. The Department shall issue a refund for ~~one renewal~~ the watercraft registration renewal fee and, when applicable, the Nonresident Boating Safety Infrastructure fee when the registered owner has erroneously paid those fees twice for the same registration renewal for the same watercraft.
 2. The Department shall issue a refund for ~~a renewal~~ the watercraft registration renewal fee and, when applicable, the Nonresident Boating Safety Infrastructure fee when ~~a~~ the registered owner has erroneously paid for renewal of those fees for a watercraft that has already been sold to another individual, ~~provided that the application for refund is made within 30 calendar days of the renewal.~~
- 3-B. ~~The~~ To request a refund of fees paid in error, the person applying for the refund shall surrender an original all of the following to the Department:
1. Original certificate of number ~~and one set of;~~
 2. Registration decals, and
 3. Nonresident Boating Safety Infrastructure Decal, when applicable ~~to the Department in order to receive the refund.~~
- C. A person requesting a refund of fees under subsections (A)(1) or (A)(2) shall submit the request to the Department within 30 calendar days of the date the payment was received by the Department.
- ~~B-D.~~ The Department shall not refund payment of any penalty fee for late registration penalty fee.

R12-4-511. Personal Flotation Devices

Notices of Final Rulemaking

- A. For the purpose of this Section, "wear" means ~~that the personal flotation device is being worn according to the manufacturer's design or recommended use; that all closures of the personal flotation device are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and that the personal flotation device is adjusted for a snug fit;~~
1. The personal flotation device is worn according to the manufacturer's design or recommended use;
 2. All of the device's closures are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and
 3. The device is adjusted for a snug fit.
- B. The operator of a canoe, kayak, or other watercraft shall ensure ~~that~~ the canoe, kayak, or other watercraft is equipped with at least one appropriately-sized, U.S. Coast Guard-approved, wearable personal flotation device that is in good and serviceable condition for each person on board the canoe, kayak, or other watercraft. The operator of a canoe, kayak, or other watercraft shall also ensure ~~that~~ the wearable personal flotation devices on board the canoe, kayak, or other watercraft are readily accessible and available for immediate use. The following wearable personal flotation devices are approved by the U.S. Coast Guard:
1. Type I Personal Flotation Device: off-shore life jacket,
 2. Type II Personal Flotation Device: near-shore buoyancy vest,
 3. Type III Personal Flotation Device: flotation aid, and
 4. Type V Special Use Device.
- C. In addition to the personal flotation devices ~~prescribed in~~ described under subsection (B), the operator of a watercraft that is 16 feet or more in length, ~~except a canoe or kayak,~~ shall ensure ~~that~~ the watercraft is also equipped with a U.S. Coast Guard-approved Type IV Personal Flotation Device: buoyant cushion, ring buoy, or horseshoe buoy ~~(Type IV Personal Flotation Device)~~. Canoes and kayaks are not subject to this subsection.
- D. ~~Persons on board a watercraft or personal watercraft shall wear an appropriately-sized, U.S. Coast Guard-approved personal flotation device as prescribed in A.R.S. § 5-331(C) and A.R.S. § 5-350(A). The operator of a watercraft shall ensure an individual twelve years of age or under on board a watercraft shall wear a U.S. Coast Guard approved type I, II or III personal flotation device whenever the watercraft is underway.~~
- E. The operator of a personal watercraft shall ensure each individual aboard the personal watercraft is wearing a wearable personal flotation device approved by the U.S. Coast Guard whenever the personal watercraft is underway.
- ~~E-F.~~ Subsections (B), (C), and (D) do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training, if the racing shell or rowing skull is manually propelled, recognized by a national or international association for use in competitive racing, and designed to carry and does carry only equipment used solely for competitive racing.

R12-4-512. Fire Extinguishers Required for Watercraft

- A. The operator of watercraft shall ensure all required fire extinguishers are readily accessible and available for immediate use.
- ~~A-B.~~ Under As prescribed under A.R.S. § 5-332, an operator of a watercraft:
1. Watercraft less than 26 feet in length shall carry one U.S. Coast Guard-approved B-I type fire extinguisher on board if the watercraft has one or more of the following:
 - ~~1-a.~~ An inboard engine,
 - ~~2-b.~~ Closed compartments where portable fuel tanks may be stored,
 - ~~3-c.~~ Double bottoms not sealed to the hull or which are not completely filled with flotation materials,
 - ~~4-d.~~ Closed living spaces,
 - ~~5-e.~~ Closed stowage compartments in which combustible or flammable materials are stored,
 - ~~6-f.~~ Permanently installed fuel tanks (fuel tanks ~~secured so that they~~ cannot be moved in case of a fire or other emergency are considered permanently installed), and
 - ~~7-g.~~ A fixed fire extinguishing system installed in the engine compartment.
 - ~~B-2.~~ Under A.R.S. § 5-332, an operator of a Class 2 watercraft Watercraft (26 feet to less than 40 feet) shall carry on board the following equipment as designated and approved by the U.S. Coast Guard:
 - ~~1-a.~~ At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher, or
 - ~~2-b.~~ At least one B-I type approved hand-portable fire extinguisher if a fixed fire extinguishing system is installed in the engine compartment.
 - ~~C-3.~~ Under A.R.S. § 5-332, an operator of a Class 3 watercraft Watercraft (40 feet to not more than 65 feet) shall carry on board the following equipment as designated and approved by the U.S. Coast Guard:
 - ~~1-a.~~ At least three B-I type hand-portable fire extinguishers or at least one B-I and one B-II type hand-portable fire extinguishers, or
 - ~~2-b.~~ At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher when a fixed fire extinguishing system is installed in the engine compartment.

R12-4-513. Watercraft Accident and Casualty Reports

Notices of Final Rulemaking

- A. The operator or owner of a watercraft involved in any collision, accident or other casualty ~~that results~~ resulting in injury or death, or property damage exceeding \$500 shall submit the report required by under A.R.S. § 5-349 ~~on a form provided by the Department. The operator or owner of a watercraft involved in any collision or accident that results in property damage only shall submit the report required by A.R.S. § 5-349, on a form provided by the Department, only if the property damage exceeds \$500. The report shall be made on a form furnished by the Department and provided by the law enforcement officer investigating the collision, incident, or other casualty. The operator or owner of the watercraft submitting the report required by A.R.S. § 5-349 shall complete the form provided by the Department in full; and shall clearly identify on the form any information that is either not applicable or that is unknown. The operator or owner of the watercraft submitting the report required by A.R.S. § 5-349 shall provide the following information on the form provided by the Department:~~
1. The operator's ~~name, address, date of birth, gender, and telephone number~~ personal information;
 2. The owner's ~~name, address, date of birth, gender, and telephone number~~ personal information;
 3. The operator's hours of experience in operating watercraft;
 4. The operator's amount of boating safety instruction;
 5. Information on the watercraft involved:
 - a. ~~Type of watercraft, make, and model;~~
 - b. ~~Watercraft propulsion and year built;~~
 - c. ~~Watercraft construction and year built;~~
 - d. ~~Hull material;~~
 - e. ~~Hull identification number; and~~
 - f. ~~State registration number;~~
 6. Information on the accident:
 - a. ~~Date and time;~~
 - b. ~~General and specific location;~~
 - c. ~~Type of operation at time of accident;~~
 - d. ~~Type of accident;~~
 - e. ~~Weather, water conditions, wind, visibility, and estimated temperature at the time of accident; and~~
 - f. ~~Cause of accident;~~
 7. Estimated cost of damage to the watercraft;
 8. Whether the watercraft sank, and if so, ~~whether recovered, and the name, address, and telephone number of the person who made~~ information regarding the recovery of the watercraft;
 9. ~~Whether the watercraft was adequately equipped with~~ Information regarding U.S. Coast Guard-approved personal flotation devices, ~~whether they were accessible, and whether they were used;~~
 10. ~~Whether~~ Information regarding fire extinguishers ~~were used, and the types and number of fire extinguishers used;~~
 11. ~~Information on~~ Personal information for operators and owners of each of the other watercraft involved in the accident: ~~name, address, telephone number, and watercraft registration number;~~
 12. ~~Information on~~ Personal information for persons killed or injured in the accident: ~~name, address, date of birth, cause of death or nature of injury, and the name and location of the receiving hospital;~~
 13. ~~The name, address, date of birth, and telephone number of~~ Personal information for all passengers in the watercraft;
 14. The location of passengers, skiers, and swimmers at the time of the accident;
 15. ~~If there was~~ Information regarding damage to property other than any of the watercraft involved:
 - a. ~~Name, address, and telephone number of owner;~~
 - b. ~~Description of damage; and~~
 - c. ~~Estimated cost of damage;~~
 16. ~~The name, address, and telephone number of~~ Contact information for any witnesses other than passengers;
 17. A diagram and narrative explaining the accident;
 18. Contact information for the person completing the form;
 19. The signature of the person completing the form;
 20. The date the person completing the form submits the form to the Department; and
 21. Any other information required by the Department to ensure compliance with 33 CFR 173.57.
- B. ~~Any~~ The person filling out ~~completing the form shall sign the form; designate whether the person is the owner, operator, or any other party; and provide name, address, telephone number, and the date the form is submitted~~ deliver or mail the form to the Arizona Game and Fish Department, Law Enforcement Branch at 5000 W. Carefree Hwy, Phoenix, AZ 85086.
- C. The operator or owner of a watercraft involved in any collision, accident or other casualty resulting in injury or death shall submit the report to the Department no later than 48 hours after the incident.
- D. The operator or owner of a watercraft involved in any collision, accident or other casualty resulting only in property damage exceeding \$500 shall submit the report to the Department no later than five days after the incident.

R12-4-514. Liveries

- A. ~~Under~~ As prescribed under A.R.S. § 5-371, a watercraft owned by a boat livery that requires registration and does not

Notices of Final Rulemaking

have the certificate of number on board shall be identified while in use by means of a receipt provided by the livery to, ~~and to be kept in the possession of,~~ the person operating the rented watercraft. The receipt shall contain the following information:

1. ~~The business~~ Business name and address of the livery as shown on the certificate of number,
2. ~~The watercraft~~ Watercraft registration number as issued by the Department,
3. ~~The beginning~~ Beginning date and time of the rental period, and
4. Written acknowledgment on the receipt of compliance with the requirements prescribed under A.R.S. § 5-371, signed by both the livery operator or the livery's agent and the renter.

B. The person operating the rented watercraft shall carry the receipt and produce it upon request to any peace officer.

R12-4-515. Display of AZ Numbers and Registration Decals

- A.** ~~No A~~ person shall not use or operate, or grant permission to use or operate, a watercraft on the waters within the boundaries of this state unless such watercraft ~~has, on each side of the bow,~~ displays a valid number and current ~~annual registration decal displayed pursuant to this rule, except that a watercraft may be used or operated for 30 days when a valid temporary numbering certificate has been issued pursuant to R12-4-509 and except for watercraft otherwise exempted in A.R.S. § 5-321 or § 5-322 in the manner as established under subsection (B).~~ This Section does not apply to undocumented watercraft displaying a valid temporary numbering certificate authorized under R12-4-509 or exempt under A.R.S. § 3-322.
- B.** The number awarded to each watercraft by the Department shall be painted on or attached to each side of the forward half of the watercraft in such position as to be clearly visible. The number shall read from left to right with well-proportioned block letters not less than 3 inches in height, excluding outline. The number shall be a color that will contrast with the background so as to be easily read. The letters AZ and the suffix shall be separated from the numerals by a hyphen or equivalent space. The decals shall be affixed 3 inches in front of the AZ on both sides of the forward half of the watercraft. The owner of a watercraft shall ensure the AZ number and registration decals are displayed as follows:
1. The AZ numbers shall:
 - a. Be clearly visible and painted on or attached to each exterior side of the forward half of a non-removable portion of the watercraft;
 - b. Be in a color that contrasts with the watercraft's background color so as to be easily read from a distance;
 - c. Include the letters "AZ" and the suffix, separated by a hyphen or equivalent space between the letters "AZ" and the suffix; and
 - d. Read from left to right in well-proportioned block letters that are not less than three inches in height, excluding outline.
 2. The registration decals shall be affixed three inches in front of "AZ" on both sides of the forward half of a non-removable portion of the watercraft.
- C.** On watercraft so constructed that it is impractical or impossible to display the ~~numbers~~ AZ numbers in a prominent position on the forward half of the hull or permanent superstructure, the ~~numbers~~ AZ numbers may be displayed on brackets or fixtures securely attached to the forward half of the watercraft.
- D.** Persons possessing a dealer watercraft certificate of number issued ~~pursuant to under A.R.S. § 5-322(B)~~ 5-322(F) shall visibly display ~~their~~ the AZ numbers and validating registration decals as ~~prescribed in established under this rule Section,~~ except that the numbers and decals may be printed or attached to temporary, removable signs ~~which may be temporarily but that are~~ securely attached to the watercraft being demonstrated.
- E.** Expired registration decals issued by any jurisdiction shall be covered or removed from the watercraft, so that only the current ~~decal shall be~~ registration decals are visible.
- F.** Invalid watercraft AZ numbers ~~or and~~ registration decals shall not be displayed on any watercraft. ~~See R12-4-506. The owner of the watercraft shall surrender the AZ numbers and registration decals to the Department in compliance with R12-4-506(C).~~

R12-4-516. Watercraft Sound Level Restriction

- A.** A person shall not operate a watercraft upon the waters of this state if the watercraft emits a noise level that exceeds any of the following.
1. A noise level of 86 dB(A), measured at a distance of 50 feet or more from the watercraft on the "A" weighted scale of a sound level instrument that conforms to recognized industry standards and is maintained according to the manufacturer's instructions.
 2. For engines manufactured:
 - a. Before January 1, 1993, a noise level of 90 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005, revised July 2004, ~~which is incorporated by this reference, not including any and containing no~~ later editions or amendments; and
 - b. On or after January 1, 1993, a noise level of 88 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005, revised July 2004, ~~which is incorporated by this reference, not including any and containing no~~ later editions or amendments; or
 3. A noise level of 75 dB(A) measured as specified in the Society of Automotive Engineers Recommended Practice

Notices of Final Rulemaking

shoreline sound test SAEJ1970, revised September 2003, ~~which is incorporated by this reference, not including any and containing no~~ later editions or amendments.

- B. ~~Copies of the~~ The materials incorporated by reference in subsection (A) are available from may be viewed at any Department office and are available for purchase from SAE International, 400 Commonwealth Dr, Warrendale, PA 15096-0001 or online at www.sae.org.
- C. A measurement of noise level that is in compliance with this Section does not preclude the conducting of a test or multiple tests of noise levels.
- D. A peace officer authorized to enforce the provisions of this Section who has reason to believe ~~that~~ a watercraft is being operated in violation of the noise levels established in this Section may direct the operator of the watercraft to submit the watercraft to an onsite test to measure noise level.
- E. An operator of a watercraft who receives a request from a peace officer to test the noise level of the watercraft under subsection (D) shall allow the watercraft to be tested. If, based on a measurement or test to determine the noise level of a watercraft administered under this Section, the noise level of the watercraft exceeds one or more of the decibel level standards in subsection (A), the operator of the watercraft shall take immediate measures to correct the violation as prescribed ~~by~~ under A.R.S. § 5-391(C).
- F. This Section shall not apply to watercraft operated under permits issued in accordance with A.R.S. § 5-336(C).

R12-4-519. Reciprocity

~~All~~ As authorized under A.R.S. § 5-322(E), all watercraft ~~which are~~ currently numbered or exempt from numbering under the provisions of their state of principal ~~use~~ operation are exempt from numbering for a period of 90 days after entering ~~the~~ this state. See also A.R.S. § 5-322(C) and (F).

R12-4-520. Arizona Uniform State Waterway Marking System

The Arizona uniform state waterway marking system is the same as that prescribed ~~in~~ under 33 CFR 62, revised July 1, 2004; ~~not including any later editions or amendments,~~ which is incorporated by reference in this Section. ~~A copy~~ The incorporated material is available from at any Department office, online at www.gpoaccess.gov, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Stop: IDCC, Washington, D.C. 20402 20401. This Section does not include any later amendments or editions of the incorporated material.

R12-4-521. Placing or Tampering with Regulatory Markers or Aids to Navigation

- A. ~~No~~ A person shall not mark the waterways or their shorelines in this state with mooring buoys, regulatory markers, aids to navigation, or other types of permitted waterway marking devices as ~~prescribed in~~ established under R12-4-520, without authorization from the governmental agency or the private interest having jurisdiction on such waters.
- B. ~~No~~ A person shall not moor or fasten a watercraft to any marker not intended for mooring, or willfully damage, tamper with, remove, obstruct, or interfere with any aid to navigation, regulatory marker or other type of permitted waterway marking devices as ~~prescribed in~~ established under R12-4-520, except in the performance of authorized maintenance responsibilities or as authorized ~~pursuant to~~ under R12-4-518 or R12-4-522.

R12-4-522. Establishment of Controlled-Use Markers

- A. If a lawful jurisdiction has not exercised its authority to control watercraft under A.R.S. § 5-361, or if waters are directly under the jurisdiction of the Commission, the Department has the authority to control watercraft within that jurisdiction in accordance with the following requirements:
 - 1. The Department shall place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.
 - 2. The Department shall ensure ~~that~~ restrictions imposed are clearly communicated to the public as prescribed by rule or by wording on the markers.
- B. A governmental agency, excluding federal agencies with jurisdiction over federal navigable waterways, shall report to the Department if when controlled-use markers have been placed ~~and include in that report the type, purpose, and placement of markers, and whether the markers are expected to be permanent or temporary;~~ the governmental agency shall also advise the Department of the removal of controlled-use markers or removed, unless the establishment or removal of markers is for a period of less than 30 days. The report shall be made within 30 days of establishment or removal of any controlled-use markers. ~~A report is not required for establishment or removal of markers for less than 30 days and shall include the:~~
 - 1. Report type.
 - 2. Purpose of markers.
 - 3. Placement of markers, and
 - 4. Whether the markers are expected to be permanent or temporary.
- C. Any person or government agency may request establishment, change, or removal of controlled-use markers on waters under the jurisdiction of the Commission or on waters not under the jurisdiction of another agency by submitting a written request providing the reasons for the request to the ~~Director of the Arizona Game and Fish Department, who~~ 5000 W. Carefree Hwy, Phoenix, AZ 85086. The Department shall either ~~accept~~ approve or deny the request within 60 days of

Notices of Final Rulemaking

receipt.

- D.** A person may appeal the ~~Director's~~ Department's denial of a request to the Commission as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.

R12-4-523. Controlled Operation of Watercraft

- A.** A person shall not operate any watercraft, or use any watercraft to tow a person on ~~waterskis~~ water skis, a surfboard, inflatable device, or similar object, device or equipment in a manner contrary to the area restrictions imposed by lawfully placed controlled-use markers, except for:
1. Law enforcement officers acting within the scope of their lawful duties;
 2. Persons involved in rescue operations;
 3. Persons engaged in government-authorized activities; and
 4. Persons participating in a regatta, during the time limits of the event only.
- B.** The exemptions listed ~~in~~ under subsection (A) do not authorize any person to operate a watercraft in a careless, negligent, or reckless manner as prescribed ~~in~~ under A.R.S. § 5-341.

R12-4-525. Revocation of Watercraft Certificate of Number, AZ Numbers, and Decal Decals Revocation

- A.** For the purposes of this Section, "person" has same meaning as prescribed ~~in~~ under A.R.S. § ~~5-301(8)~~ 5-301.
- B.** Upon notice of conviction of a person under A.R.S. § ~~5-391(F)~~ 5-391(G), the Department shall revoke for a period not to exceed two years the certificates of number, AZ numbers, ~~and~~ registration decals, and Nonresident Boating Safety Infrastructure decals of any Arizona registered watercraft owned by that person and involved in the violation ~~that the convicted person owns. If the conviction under A.R.S. § 5-391(F) involves stolen watercraft, the Department shall revoke for a period not to exceed two years the certificates of number, numbers, and decals of any Arizona registered watercraft that the convicted person owns.~~
- C.** Upon notice of conviction of a person under A.R.S. § ~~5-391(G)~~ 5-391(H), the Department shall revoke for a period not to exceed one year the certificates of number, AZ numbers, ~~and~~ registration decals, and Nonresident Boating Safety Infrastructure decals for any Arizona registered watercraft owned by that person and involved in the violation ~~that the convicted person owns.~~
- D.** Upon receiving notice of conviction, the Department shall serve notice under A.R.S. §§ 41-1092.03 and 41-1092.04 on the person convicted that the certificates of number, AZ numbers, ~~and~~ registration decals, and Nonresident Boating Safety Infrastructure decals of watercraft the person owns are subject to revocation.
- E.** A person whose certificates of number, AZ numbers, ~~and~~ registration decals, and Nonresident Boating Safety Infrastructure decals are subject to revocation may request a hearing. The person shall submit a written request to the Arizona Game and Fish Department, Director's Office, ~~2221 W. Greenway Rd.~~ 5000 W. Carefree Hwy, Phoenix, AZ ~~85023~~ 85086, within ~~45~~ 30 calendar days of receiving the notice ~~provided in~~ described under subsection (D).
- F.** If the person requests a hearing, the Department shall, within ~~30~~ 60 days of receiving the request, schedule a hearing ~~before the Director or request, in accordance with as prescribed under A.R.S. § 41-1092.05, that the Office of Administrative Hearings schedule a hearing.~~
- G.** After a final decision to revoke the person's certificates of number, AZ numbers, and registration decals, and Nonresident Boating Safety Infrastructure decals, the Department shall serve upon the person an Order of Revocation. Within 15 calendar days of receipt of the notice, the person shall surrender to the Department the revoked certificates of number and decals.
- H.** The revocation of the certificates of number, AZ numbers, ~~and~~ registration decals, and Nonresident Boating Safety Infrastructure decals does not affect the legal title to or any property rights in the watercraft. Upon receipt of an application to the Department to transfer watercraft registration by the new watercraft owner, the Department shall terminate the revocation and allow the owner to transfer the owner's entire interest in the watercraft if the Department is satisfied ~~that~~ the transfer is proposed in good faith and not for the purpose of defeating the revocation.

R12-4-526. Unlawful Mooring

- A.** ~~An individual~~ A person, as defined under A.R.S. § 5-301, shall not moor, anchor, fasten to the shore, or otherwise secure a watercraft in any public body of water for ~~longer~~ more than 14 days within any period of 28 consecutive days ~~in any public body of water~~ unless:
1. The ~~individual person~~ moves the watercraft at least 25 nautical miles from its previous location,
 2. The waters are a special anchorage area as defined ~~by~~ under A.R.S. § ~~5-301(12)~~ 5-301,
 3. Authorized for private dock or moorage, or
 4. Authorized by the government agency or private interest ~~that has~~ having jurisdiction over the waters.
- B.** The 14 day limit may be reached through either a number of separate moorings or 14 days of continuous overnight occupation during the 28 day period.

R12-4-527. Transfer of Ownership of a Towed Watercraft

- A.** For the purpose of this Section, "towed watercraft" means a watercraft that has been impounded by and is in the possession of a towing company located in this state.

Notices of Final Rulemaking

- B. At the time a towing company requests watercraft registration information prescribed under A.R.S. § 5-324 for a towed watercraft, the towing company shall present the towed watercraft to the closest Department ~~regional~~ office for identification if there is no discernible hull identification number or state-issued registration number.
- C. A towing company ~~that wants to~~ seeking to transfer the ownership of a towed watercraft shall submit all of the following to the Director of the Department:
1. Evidence of compliance with notification requirements ~~in~~ prescribed under A.R.S. § 5-399;
 2. A report on a form furnished by the Department and available ~~from the~~ at any Department ~~that includes~~ office. The form shall include all of the following information:
 - a. Name of towing company;
 - b. Towing company's business address;
 - c. Towing company's business telephone number;
 - d. Towing company's Arizona Department of Public Safety tow truck permit number;
 - e. Towed watercraft's hull identification number, if known;
 - f. Towed watercraft's state-issued registration number, registration decal, and year of expiration, if known;
 - g. Towed watercraft's trailer license number, if available;
 - h. State and year of trailer registration, if available;
 - i. Towed watercraft's color and manufacturer, if known;
 - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any damage;
 - k. Date the watercraft was towed;
 - l. Location from which the towed watercraft was removed;
 - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, include officer badge number, jurisdiction, and copy of report or towing invoice;
 - n. Location where the towed watercraft is stored; and
 - o. Name and signature of towing company's authorized representative; and
 3. Twenty-five dollar application fee authorized under A.R.S. § 5-399.03(2).
- D. If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft ~~under A.R.S. § 5-399.01, and if the Department has determined that the towed watercraft is not stolen under A.R.S. § 5-399.02(A), the towing company shall follow the application procedures in established under~~ under A.R.S. § 5-399.02(B) and R12-4-502 to register the towed watercraft.

R12-4-528. Watercraft Checkpoints

- A. A law enforcement agency may establish a watercraft checkpoint to ensure public safety on state waterways, to screen for unsafe or impaired watercraft operators, or to gather demographic, statistical, and compliance information related to watercraft activities.
- B. An individual may be required to perform the following during a watercraft stop or at a watercraft checkpoint:
1. Stop or halt as directed when being hailed by a peace officer or entering the established checkpoint boundary as prescribed under A.R.S. § 5-391, and
 2. Provide evidence of required safety equipment and registration documentation prescribed under A.R.S. Title 5, Chapter 3, Boating and Water Sports.
- C. This Section does not limit any state peace officer's authority to conduct routine watercraft patrol efforts prescribed under A.R.S. Title 5, Chapter 3, Boating and Water Sports.

R12-4-529. ~~Repeated~~ Nonresident Boating Safety Infrastructure Fee; Proof of Payment; Decal

- A. A nonresident owner of a recreational watercraft who establishes this State as the state of principal operation shall pay the Nonresident Boating Safety Infrastructure Fee (NBSIF) established under A.R.S. § 5-327 before placing that watercraft on the waterways of this State.
- B. The nonresident recreational watercraft owner shall carry and display proof of payment of the fee while the watercraft is underway, moored, or anchored on the waterways of this State. Acceptable proof of payment means any one of the following:
1. A current Arizona Watercraft Certificate of Number indicating the NBSIF was paid.
 2. A current Arizona Watercraft Temporary Certificate of Number indicating the NBSIF was paid.
 3. A current Arizona Watercraft Registration Decal indicating the NBSIF was paid, or
 4. A current Arizona Nonresident Boating Safety Infrastructure Decal.
- C. The Nonresident Boating Safety Infrastructure Decal shall be affixed in front of the Arizona Watercraft Registration Decal on both sides of the forward half of the watercraft.